

Delegated Report

Planning Ref: 23/01176/FUL

Applicant: Mr M Patel

Ward: Twycross, Sheepy and Witherley



Hinckley & Bosworth
Borough Council

**Site: Water Tower, Roe House Lane, Norton Juxta Twycross,
Leicestershire**

Proposal: Conversion of existing water tower to residential dwelling with associated parking, landscaping, access improvements and other works

1. Recommendation

1.1. Refuse planning permission subject to:

- Reasons outlined at the end of this report.

2. Planning application description

- 2.1. The application seeks permission for the conversion of the existing water tower to six bedroom dwelling. The application includes an extension at the top of the existing building to house a lift shaft. Four parking spaces are provided, and the application includes the improvement to Roe House Lane to provide it with a metalled surface and passing places.
- 2.2. An internal steel frame would be inserted to support the new floors and the window openings. The building would be faced in black brick with the ground floor faced in charcoal aluminium standing seam vertical cladding. Windows and the reveals and sills would be black aluminium. The new window inserts replicate on each of the four floors and are uniformly spaced around the building.
- 2.3. The site plan indicates that no existing trees would be removed.

3. Description of the site and surrounding area

- 3.1. The application site covers an area of 0.35 hectares and lies on a ridge of high ground within the open countryside approximately 1500m north west of Norton Juxta Twycross and 500 metres south east of the M42. The site lies on the border with North West Leicestershire District Council and a few metres to the east is the boundary with North Warwickshire Borough Council. All of the curtilage of the water tower lies within HBBC. The originally submitted red line included the access to the water tower from Austrey Road/Appleby Hill to the west. The boundary between Warwickshire and Leicestershire lies along the centre of Roe House Lane east of the water tower and unusually more than 50% of the originally submitted red line of the site laid outside of HBBC but was split almost equally between the other two councils. The applicant has submitted a revised red line site location that just includes the site itself and the adjacent highway frontage and this lies entirely within HBBC. The site lies within the open countryside but to the south is the large rear garden to a dwelling that is accessed from Appleby Hill to the west.
- 3.2. The site is bounded by poorly maintained hedging and fencing and contains several mature trees that partially screen the water tower. Some of these have grown so that they touch the water tower. Given its position on high ground the tower is

viewed from long distances particularly when there is no leaf cover on the trees. Many of the trees and parts of the water tower are clad with ivy. Approximately 150 metres to the north west is the distinctively shaped telecommunications tower taking advantage of the elevation in comparison to surrounding land in all directions.

- 3.3. To the south on the opposite side of Roe House Lane is the large rear garden of Hill Farm which lies within Warwickshire, and which is accessed from Appleby Hill to the west.
- 3.4. The water tower was most recently used to support telecommunications equipment but is no longer used for that purpose. The site is located in flood zone 1 on the Environment Agency Flood Maps for Planning and is not at risk of surface water flooding. The site is not within a conservation area and there are no listed buildings in the vicinity.
- 3.5. Roe House Lane is both a restricted byway and a byway that is open to all traffic. That part between the site and Austrey Road/Appleby Hill is open to all traffic. It is also a Public Right of Way (Q4a).

4. Relevant planning history

- 4.1. None.

5. Publicity

- 5.1. The application has been advertised by means of a site notice.
- 5.2. One representation has been received from the occupiers of the dwelling to the south of the site, Hill Farm. The writer supports the application for the following reasons:
 - The tower has been a source of anti-social behaviour for some time and is a constant worry; and
 - It is good that the structure will be put to use – what will happen if permission is refused.

Concern is also expressed though with regard to the height of the tower and overlooking and loss of privacy, but this does not override the overall desire for permission to be granted.

6. Consultation

- 6.1. Twycross Parish Council – No response to date.
- 6.2. LCC Highway Authority – No objections but provides advice and requests conditions regarding parking and turning facilities, visibility splays and surfacing both of the access and the site.
- 6.3. HBBC Waste – No objections but requests a condition regarding the provision of waste and recycling storage and collection.
- 6.4. HBBC Environmental Services – No objections but requests conditions regarding contamination.

7. Policy

- 7.1. Core Strategy (2009)
None relevant
- 7.2. Site Allocations and Development Management Policies DPD (SADMP) (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM15: Redundant Rural Buildings
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (Dec 2023)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.5. Other relevant guidance
- Good Design Guide (2020)
 - Highway Design Guide
 - Landscape Character Assessment (2017)

8. Appraisal

- 8.1. It is considered that the key issues in the determination of this application are:
- Principle of Development
 - Housing Land Supply
 - Design and Impact upon the Character of the Area
 - Residential Amenity
 - Highway Safety
 - Ecology, Biodiversity and Trees

Principle of Development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (Dec 2023) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the Site Allocations and Development Management Policies DPD (2016) (SADMP).

- 8.4. The SADMP is over 5 years old and was adopted prior to the publication of the current NPPF. Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Nevertheless, in accordance with Paragraph 225 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF. Ultimately, the closer the policies in the plan are to the policies in the NPPF, the greater weight they may be given.
- 8.5. Paragraph 84 of the NPPF states that decisions should avoid the development of isolated homes in the countryside unless the development would re-use a redundant building and enhance its immediate setting.
- 8.6. As set out above the site lies fully within the countryside and does not have any form of physical connection with any settlement. Therefore Policy DM4 of the SADMP is applicable. Policy DM4 states that that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- a) It is for outdoor sport or recreation purposes, and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - d) It relates to the provision of stand-alone renewable energy developments; or
 - e) It relates to the provision of accommodation for a rural worker; and
 - i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - ii) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii) It does not create or exacerbate ribbon development.
- 8.7. Policy DM15 of the SADMP states that proposed development outside the settlement boundary for the re-use of redundant rural buildings will be supported where:
- a) The applicant demonstrates that the building is no longer viable in its current use; and
 - b) The applicant has adequately demonstrated that the building is structurally sound and is capable of conversion without significant rebuild or alteration; and
 - c) Any proposed extensions or alterations are proportionate to the size, scale, mass and footprint of the original building; and
 - d) The proposed development accords with Policies DM10, DM11 and DM12.
- All development proposals for the re-use of redundant rural buildings should result in the enhancement of the immediate setting.
- 8.8. It is agreed that the building is no longer viable in its current use. The tower has no current use. It is also agreed that the rooftop extension is proportionate with regard to the existing scale and massing of the existing tower. It is further agreed that the tower is structurally sound. It is not though considered that the structure is capable of conversion without significant alteration. As is set out in the supporting

submissions a steel structure is required to both insert floors and allow for window openings. It is considered that the window openings in this instance transform the clearly utilitarian solid structure to something that is very different. This is explored more in the section below on the impact on the character of the area.

- 8.9. Whether or not the proposals accord with paragraph 84 of the Framework, Policy DM4(b), Policy DM10(c) and Policy DM15 is explored below regarding the requirement that proposals should result in the enhancement of the immediate setting.

Housing Land Supply

- 8.10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.11. Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.12. The Council is currently able to demonstrate a 4.89 year supply of deliverable housing as at 1 April 2022, which is the latest date for which a supply is known. Given the above the 'tilted' balance in Paragraph 11(d) of the Framework is triggered.
- 8.13. Paragraph 11(d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.14. Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. The overall aim is to meet as much of the area's identified housing need as possible with an appropriate mix of housing types for the local community.
- 8.15. Paragraph 70 of the NPPF states that small and medium sized sites, such as windfall sites, can make an important contribution to meeting the housing requirements of an area. In order to promote sustainable development in rural areas, Paragraph 83 of the NPPF requires new housing to be located where it will enhance or maintain the vitality of rural communities.
- 8.16. Paragraph 116 of the Framework states that applications should minimise the scope for conflicts between pedestrians, cyclists and vehicles.
- 8.17. Section 11 of the Framework deals with making effective use of land. Paragraph 124 states that decisions should support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where

land supply is constrained but also that they should recognise that some undeveloped land can perform many functions, such as for wildlife. Section 12 of the framework deals with achieving well-designed and beautiful places and paragraph 135 requires that developments are sympathetic to the surrounding landscape setting.

- 8.18. The proposed development is for the conversion of the water tower into a six bedroom dwelling. While the provision of a new dwelling is a benefit and a contribution to the housing land supply it is considered that only limited weight can be given to this benefit of the proposal.

Design and Impact upon the Character of the Area

- 8.19. Policy DM10(c) and (d) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally.
- 8.20. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing.
- 8.21. Section 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the Framework details the six key requirements to ensure the creation of well-designed and beautiful places. Local policy is considered to accord with the NPPF.
- 8.22. The application proposes the insertion of floor to ceiling height windows in a regular pattern around the building such that windows are lined with each other on each floor. The view would be the same irrespective of whether the building was being viewed from the north, east, south or west. The roof is to be accessible and provides a terrace and siting for solar panels. Glazed rooflights light the stair core which runs through the centre of the tower.
- 8.23. As set out above the building is readily seen during winter given its siting on higher ground and despite its screening of trees. It can be seen from the public highway from considerable distances within a very rural setting. A small central extension is required at the top of the tower to house the lift overrun. It is considered that the building is already seen in the landscape as an anomaly, as something that is alien. This is tempered though by its screening and by an understanding that the structure had a purpose.
- 8.24. Water towers are featured that are occasionally encountered within the open countryside. They are utilitarian by their nature and seldom feature windows. The structure has no architectural merit, and this is not the case of dealing with an old Victorian water tower of architectural merit or of converting a utilitarian structure within an urban setting. The changes to the elevations that result from the conversion to a residential use would transform the appearance of both the tower and the site. Much of the site is given over to parking and manoeuvring space and a residential use would be accompanied by domestic paraphernalia.

- 8.25. The site is located directly adjacent to a Public Right of Way making the transformation of the site very apparent to any users of Roe House Lane. At nighttime the illumination of windows and the lift overrun would make the dwelling a prominent feature in the much wider landscape. During the summer and during the daytime it is accepted that the screening effect of the trees would be greater but even though the trees could be protected by preservation order there would be pressure for an element of removal given that they already have physical contact with the tower.
- 8.26. The comments of the neighbour are noted with regard to anti-social behaviour. The site is not securely fenced and the ladder to the roof is accessible. These matters can and should be addressed. It is not considered though that the solving of any current issues with regard to the site should be seen as a benefit of the application to which any weight should be given.
- 8.27. It is considered that the conversion of the tower would, contrary to the requirements of paragraph 84 of the Framework, of Policy DM4, of Policy DM10 and of Policy DM15, not lead to an enhancement of the immediate setting of the tower. Further the conversion would fail to complement or enhance the character and appearance of the site and surrounding area and would have a significant adverse effect in the intrinsic value, beauty, open character and landscape character of the countryside that would be prominent across a wide area. The proposal is considered to fail to meet the requirement set out in paragraph 84 of the framework, Policy DM4, Policy DM10 and Policy DM15 of the SADMP.

Residential Amenity

- 8.28. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.29. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.30. Paragraph 135 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.31. Paragraph 191 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.32. The closest neighbour has expressed their concerns regarding overlooking and loss of privacy. This is an understandable concern given the proximity of the tower to the neighbours' garden and the height of the tower, its proposed four floors of accommodation, windows and roof terrace. The tower is 85m from the dwelling

itself but just 12m from the neighbours long and large rear garden. As the neighbours have stated trees have been planted to obscure views and it is considered that if the recommendation had been to approve the proposed development measures could have been taken to address concerns regarding privacy and overlooking. It is not considered though conversion in principle, would result in significant overlooking or loss of privacy sufficient to warrant refusal of the application.

- 8.33. It is considered that the proposed development, subject to conditions, would have no significant detrimental effect on the amenity of any neighbouring occupiers and would be able to provide future occupiers with a satisfactory level of amenity in accordance with the requirements of Policy DM10 of the SADMP.

Impact upon highway safety

- 8.34. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)). Policy DM17 also states that development will be supported where it is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 8.35. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.36. Paragraph 115 of the NPPF (2019) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 116(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.37. The site access would require surfacing as set out in the consultation response from the Local Highway Authority but no other physical works, such as widening or the provision of passing places is required. The Highway Authority notes that the applicant has demonstrated that the lane can be used by vehicular traffic and subject to conditions has no objections to the proposal.
- 8.38. It is not considered that the proposal will have any significant negative impact on the highway network. As such the proposal satisfies the highway safety aspects of Policy DM17 and DM10(g) of the SADMP and the NPPF.

Ecology, Biodiversity and Trees

- 8.39. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value. The policy states that on site features should be retained, buffered and managed favourably.
- 8.40. There are no significant trees on or adjacent to the site and the hedge planting could be retained satisfactorily subject to detailed design. The trees do though provide screening of the structure and have a significant amenity value in the wider

landscape. Should the recommendation have been for approval, protection of the trees would have been required.

- 8.41. While there would be pressure to undertake works to the trees it is considered that conversion of the water tower to a dwelling would not result in ecological impacts that could not be satisfactorily dealt with via condition.

Planning Balance

- 8.42. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.43. This application relates to the conversion of an existing disused structure to a dwelling. The Council is unable to demonstrate a 5 year supply of housing land as required by the NPPF. Paragraph 11d) of the framework is triggered and therefore permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.44. The scheme has been found to be contrary to the requirements of paragraph 84 of the framework and to policies DM4, DM10 and DM15 of the SASDMP in that it is not capable of conversion without significant alteration and would not result in the enhancement of the immediate setting of the tower. Further it would fail to complement or enhance the character and appearance of the site and surrounding area and would have a significant adverse effect in the intrinsic value, beauty, open character and landscape character of the countryside that would be prominent across a wide area. These harms are given significant weight in the planning balance.
- 8.45. As the scheme relates to a single dwelling it would not contribute significantly to the Council's lack of five year housing land supply. However, as the Council currently lacks that five year supply the small contribution that the additional dwelling would make is given limited weight.
- 8.46. The scheme would provide limited benefits to the local economy through the creation of jobs, demand for services and materials during the construction phase and from the future occupation of the dwelling supporting businesses in the wider rural area. These benefits are given limited weight.
- 8.47. The fact that the scheme relates to the conversion of an existing building attracts limited weight in its favour in the planning balance but the fact that the site is in such an unsustainable location where occupiers would be reliant on private vehicles is considered to negate those benefits.
- 8.48. It is considered that in the particular circumstances the failure to preserve or enhance the immediate setting and the character of the area and the significant harm that would be likely to be caused to the intrinsic value, beauty and character of the countryside attract significant weight that outweighs the limited benefits that would result from approval of the scheme.
- 8.49. It is concluded that the balance in this particular case weighs clearly in favour of refusal of the application for the reasons set out below.

9. Equality implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.

- 9.3. There are no known equality implications arising directly from this development.

- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Recommendation

- 10.1. **Refuse planning permission for the reasons set out below.**

11. Reasons

1. The proposed development would result in an uncharacteristic transformation of the tower and its site that would result in a highly visible form of development that would be prominent in the wider landscape and in distant and closer views and would have a significantly detrimental effect on the intrinsic value beauty and character of the area and the wider countryside contrary to the requirements of Policies DM1, DM4, DM10 and DM15 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the overarching principles of the National Planning Policy Framework (Dec 2023).
2. The proposed development would result in a dwelling located in an unsustainable countryside location where future occupiers would be likely to rely on car journeys to meet day-to-day living requirements. As such the location would fail to promote the use of sustainable modes of travel as required by Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document and as advocated in the National Planning Policy Framework (Dec 2023).