

Planning Appeal Statement

Appeal under Section 78 of the Town and Country Planning Act 1990

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

Location: Land at Roe House Lane, Norton Juxta Twycross,
Leicestershire DE12 7AP

LPA Ref: 23/01176/FUL

Appeal Submission: April 2024

PRICE PLANNING ASSOCIATES

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This statement is set out under the following sections:

- Section 1 – Context
- Section 2 - Site and Surroundings
- Section 4 - Proposed Development
- Section 5 - Relevant Planning Policy and Legislation
- Section 6 – Appeal Considerations
- Section 7 - Conclusions

1. Context

- 1.1. Price Planning Associates have been instructed by the appellant, Mahendra Patel, to submit an appeal against the refusal of planning permission by Hinckley and Bosworth Borough Council on 30th January 2024 for the conversion of existing water tower to residential dwelling with associated parking, landscaping, access improvements and other works.
- 1.2. The location is on Roe House Lane, Norton Juxta Twycross, Leicestershire DE12 7AP.
- 1.3. Planning application reference 23/01176/FUL was submitted on 4th December 2023 with the following documents and plans:

Site Location Plan - Drg No. 1301 04 (submitted: 5.12.2023)

Proposed Site Plan – Drg No. 1301 02 (submitted 5.12.2023)

Proposed Floor Plans – Drg No. 1301 10 (submitted 5.12.2023)

Proposed Elevations – Drg No. 1301 11 (submitted 5.12.2023)

- Planning, Design and Access Statement – Price Planning Associates

- 1.4. The decision was issued on 30th January 2024. The application was refused due to, impact on landscape character and the unsustainable location as follows:

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).*

NOTE TO APPLICANT:-

1. *The application has been determined in accordance with the following submitted details:*

Site Location Plan - Drg No. 1301 04 Rev A (submitted: 24.01.2024)

Proposed Site Plan – Drg No. 1301 02 (submitted 5.12.2023)

Proposed Floor Plans – Drg No. 1301 10 (submitted 5.12.2023)

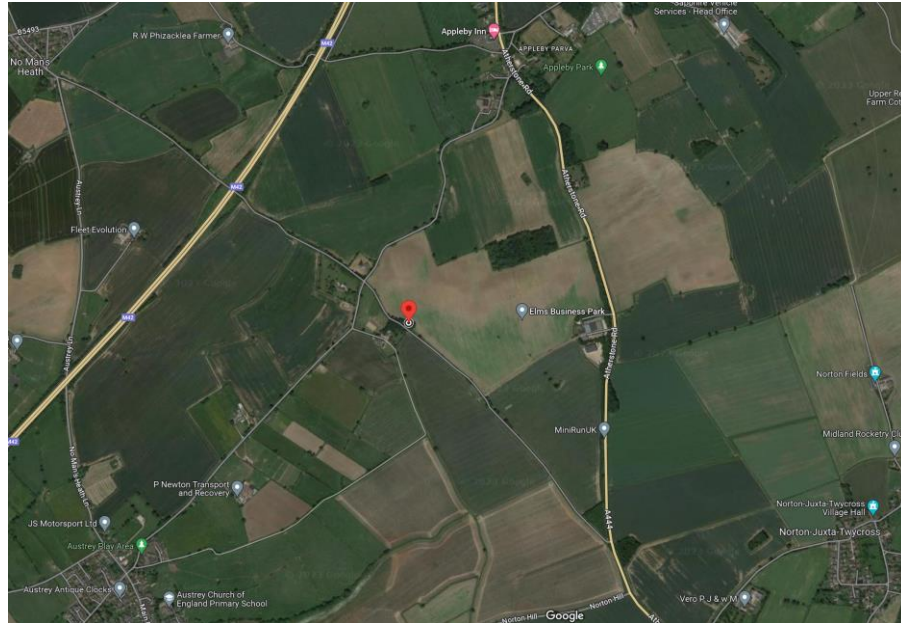
Proposed Elevations – Drg No. 1301 11 (submitted 5.12.2023)

- 1.5. This appeal statement sets out the appellant's case that the proposal will constitute a well-designed and sustainable development that complies with national and local planning policies, where suitable conditions can be applied if further detail is required.
- 1.6. We consider that the proposals are appropriate for the site which cannot be considered unsustainable. Whilst the location falls within a designated countryside area, the change of use of buildings is acceptable in principle. The proposed new dwelling would improve the appearance of the site which is currently overgrown and unkept. The new dwelling would be of exceptional quality within new and managed landscaping and hence this would have a significant beneficial effect on the street scene of the area. As put forward in the planning statement submitted with the application, we consider that these factors in combination, outweigh any harm to the character and openness of the countryside as the building already exists.
- 1.7. In addition the proposals are considered to be high quality design in sustainable materials and where amenities of residents would not be impacted. Details are included in the submitted planning, design and access statement.
- 1.8. We note there is no objection from consultees subject to conditions, on highway grounds, waste matters or land contamination.
- 1.9. Separate applications were made to the adjoining planning authorities, North West Leicestershire District and North Warwickshire Borough.
- 1.10. We consider that the Council has given no consideration to the circumstances put forward or quality of design and given undue weight to the matters shown in the refusal.

2. Site and Surroundings

- 2.1. The site is within countryside between villages of Appleby Magna to the north east, No Mans Heath to the north west, Austrey to the south west and Norton Juxta Twycross to the south east. The nearest town is Measham to the north and to the south is the market town of Tamworth.
- 2.2. The application site is located at the edge of the borough of Hinckley and Bosworth, Leicestershire and adjacent to the

boundaries with North Warwickshire Borough and North West Leicestershire District, neither of which raised objections.



Former water tower

3. Relevant Planning Policy and Legislation

RELEVANT POLICY BACKGROUND

- 3.1. This Section of the Statement will outline the key Planning Legislation, Policy and Guidance that is considered relevant to the subject development.
- 3.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, in the determination of planning applications, decisions are made in accordance with the Development Plan unless material considerations indicate otherwise.
- 3.3. The relevant development plan documents in this instance consist of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP).
- 3.4. The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) form material considerations in the determination of any application.

LOCAL POLICIES

Hinckley and Bosworth Core Strategy 2009

- 3.5. The policies of this plan are relevant and confirm that the site is outside of any settlement boundary where rural policy applies.

Sites and Development Management Policies DPD 2016 (SADMP)

- 3.6. The most relevant policies of this plan are as follows;
- 3.7. **Policy DM1 – Presumption in Favour of Sustainable Development** is the most relevant policy which supports residential development within the urban area in line with the presumption in favour of sustainable development contained within national policy.
- 3.8. **Policy DM4 - Safeguarding the Countryside and Settlement Separation** seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside. It states that: To protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
 - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting;

- 3.9. **Policy DM6: Enhancement of Biodiversity and Geological Interest** refers to enhancing the natural environment.
- 3.10. **Policy DM10: Development and Design** states that developments will be permitted providing that a number of requirements are met. This is a key policy in the determination of this planning application. The key requirements specified in the policy include:
- *Protecting the privacy and amenity of nearby residents and occupiers of adjacent buildings;*
 - *Protecting the amenity of occupiers of the proposed development;*
 - *Ensuring the proposal complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features;*
 - *Use of building materials that respect the adjoining/neighbouring buildings and the local area generally;*
 - *Provision of a high standard of landscaping where this would add to the quality of the design and siting;*
 - *Maximising opportunities for the conservation of energy and resources through design, layout, orientation and construction;*
 - *Adequate parking and charging points for electric or low emission vehicles are included where feasible; and*
 - *Maximising natural surveillance and incorporates the principles of Secured by Design / fire safety measures.*
- 3.11. **Policy DM15: Redundant rural buildings** supports their re-use or adaption only where it is demonstrated that the existing building is in a structurally sound condition and is capable of conversion without significant rebuild or alteration. The policy concludes by stating that all development proposals for the re-use of redundant rural buildings should result in the enhancement of the immediate setting.
- 3.12. **Policy DM17: Highways and Transportation** supports development that would not have any significant adverse impacts on highway safety.
- 3.13. **Policy DM18: Vehicle Parking Standards** requires new development to provide an appropriate / justified level of parking provision.

Other Local Guidance

Good Design Guide (2020)

Leicestershire Highway Design Guide (LHDG) (2022)

NATIONAL POLICIES

National Planning Policy Framework (NPPF) (2023)

3.14. The National Planning Policy Framework 2023, (NPPF), is a material consideration in planning decisions. The NPPF contains a presumption in favour of sustainable development, comprising economic, social, and environmental objectives and defined as 'meeting the needs of the present without compromising the ability of future generations to meet their own needs' (Paragraph 7).

3.15. The most relevant paragraphs of the Framework are as follows:

Section 2 sets out that **the purpose of the planning system is to achieve sustainable development**: meeting the needs of the present without compromising the ability of future generations to meet their own needs. Achieving sustainable development means that the planning system has three overarching objectives (economic, social, and environmental), which are interdependent and need to be pursued in mutually supportive ways.

Paragraph 10 states 'so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development'.

Paragraph 11 sets out that decisions should apply a presumption in favour of sustainable development and for decision-taking this means approving development proposals that accord with an up-to-date development plan without delay.

Paragraph 47 acknowledges that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

Section 5 refers to housing supply. Paragraph 83 states: To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. **Paragraph 84** in respect of rural dwellings, states that: Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

c) the development would re-use redundant or disused buildings and enhance its immediate setting;

and e) the design is of exceptional quality, in that it:

- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Section 9 promotes sustainable transport. Paragraph 115 states 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'.

Section 11 promotes the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. **Paragraph 124** refers to supporting development that makes efficient use of land, with regards to the need for different types of housing, the desirability of maintaining an area's

prevailing character and setting, and the importance of securing well-designed, attractive and healthy places.

Section 12 seeks to **achieve well designed places**. It states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. **Paragraph 130** states that decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

Planning Practice Guide (NPPG)

- 3.16. The guide provides further advice and guidance on the application of the government’s planning policies.

Other National Guidance

- 3.17. **The National Design Guide (2019)** provides planning practice guidance for delivering beautiful, enduring and successful places. The guide recognises that it is important to understand how local history, culture and heritage influences local vernacular and the identity of a place. It advises that well designed places should have a character that suits its context and its history.

Policy Conclusion

- 3.18. The local and national policies and guidance listed above are relevant to the proposal and have been taken into account in preparing the scheme and further addressed in this appeal. In policy terms it is noted that the local plan is out of date and the greater weight should therefore be given to the NPPF, particularly as it has been amended during submission and determination of the application.
- 3.19. Overall it is considered that the proposal creates good design and more sustainable and efficient use of the site in compliance with the above policies.
- 3.20. In particular, the proposed development would replace an existing building in the countryside. The proposal is identified as sustainable development as reuse of an existing building in the countryside in accordance with Policy DM4 of the SADMP, and paragraph 84 of the NPPF.
- 3.21. In addition the proposed dwelling would enhance the immediate setting and character of the area with high quality materials and design and maximise energy conservation in

accordance with policy DM10 and would not adversely impact on neighbouring amenity.

- 3.22. The occupiers of the dwelling would be served by sufficient car parking provision as required by Policy DM18. An EV charging point would also be installed.
- 3.23. Landscaping is retained and further added to in accordance with policy DM10 and DM6.
- 3.24. 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 should be given some weight in the planning balance. The scheme would provide some 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. As such it accords with policy DM1 and the general sustainable thrust of the NPPF.
- 3.25. The proposed development would therefore be in accordance with Policy DM1, DM4, DM6, DM10, DM15 and DM17 and 18 of the SADMP, and the relevant sections of the NPPF.

4. Appeal Considerations

- **Development Objectives**

- 4.1. We consider that the Council have been unreasonable in their consideration of our application and afforded no weight to the benefits that the development would bring, representing a significant improvement to the character of the area and countryside. We consider that the balancing process has not been followed objectively.
- 4.2. The application proposes a scheme of a single dwelling unit within the existing water tower. It will utilise the existing access driveway. The existing boundary hedging will be retained and new fencing added with new gates to the drive and parking areas.
- 4.3. The main objective is to make more efficient use of an underutilised site.
- 4.4. The design objectives for the proposal are to provide a sensitive and sustainable and locally distinctive development to enhance the site and retain existing vegetation.
- 4.5. In addition, design objectives are to enhance local character and distinctiveness and to adopt a style, detail and quality of materials to contrast with but also harmonise with the rural area.
- 4.6. To achieve these objectives, the dwelling has been designed to take advantage of the existing building and site configuration in a modern style that enhances the character of the area.
- 4.7. Existing and proposed plans prepared by Code6 Developments architects are included within the application submissions.
- 4.8. Having given due consideration to the development plan for the area and national planning policies, the proposed development will be also be appropriate in planning terms.

- **Proposed Development**

- 4.9. The proposals include the following elements:
 - A very high quality bespoke dwelling
 - Contemporary design and materials chosen to blend well with the rural area and minimise massing
 - Very high standard of low carbon sustainable materials and construction methods for high energy performance
 - Clearance of scrub vegetation to manage and retain boundary trees and hedgerows, to allow new hard and soft landscaping and boundary treatments

- Car parking, vehicle charging and driveway provision
- retention of existing access
- Refuse area

4.10. Plans and reports submitted with the application are included and show details of fenestration and doors, rainwater goods, cladding and other materials.

4.11. The following section addresses the Council's reasons for refusal.

• **Refusal reason 1 – Visual Impact**

4.12. Reason 1 states: ***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).***

4.13. The building already exists and itself has some visual prominence due to its height of approximately 17metres located on high ground. The structure itself is an uncharacteristic feature within the countryside and landscape. Such structures are rare and unusual. It is however within a copse of trees and vegetation and well screened with a backdrop of trees from some locations.

4.14. In this case a telecommunications tower structure stands much higher and more alien in the landscape as the main visual focus in this area.



Google images

- 4.15. In policy terms it is noted that the local plan is out of date and the greater weight should therefore be given to the NPPF, particularly as it has been amended during submission and determination of the application. The officer's report, but not the refusal, makes reference to paragraph 84 of the NPPF and indicates 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.
- 4.16. Paragraph 84 in respect of rural dwellings, states that: *Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*
c) the development would re-use redundant or disused buildings and enhance its immediate setting;
and e) the design is of exceptional quality, in that it:
- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
- 4.17. We consider that the scheme complies with this most relevant policy in that it is clearly a re-use of a disused building. Any reuse would in itself enhance its setting, while in this case the design would be unique and outstanding. This is explained further below.
- 4.18. SADMP 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: (relevant points)
b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; and
i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside;
- 4.19. As with NPPF paragraph 84, the building is existing and therefore the change of use is acceptable in principle and the judgement to be made is on whether the proposals lead to enhancement and the consequent impact on the countryside.

- 4.20. Policy DM15 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 or 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.*
- 4.21. Again as above, the building is existing and therefore the change of use is acceptable in principle. This policy is not however consistent with the NPPF, for example in respect of structural suitability, and therefore has less weight.
- 4.22. The officers report states in paragraph 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.*
- 4.23. The amount of structural alteration is internal and required a necessary frame on which to add floors. However the structural suitability is not relevant to paragraph 84 of the NPPF so therefore the only real issue for the Council is the amount and design of window openings. If the change of use is acceptable of a building to residential use, windows would clearly be required. We have shown a significant reduction in the number of windows to address the pre-app comments and the design remains a utilitarian approach but in contemporary materials.
- 4.24. The elevations will be constructed with a complete fabric first approach including use of renewable energy solutions and be of high quality and sustainable materials.

- 4.25. We have shown that the scheme will be of exemplary building design construction yet integrating with its surroundings harmoniously, reflecting the highest standards in architecture, incorporating sustainability, and in terms of materials, methods, technology and conservation. It will significantly enhance its immediate setting.
- 4.26. Our design will stand out architecturally but also blend in to establish a meaningful connection between the structure and the landscape it sits in. An understanding of local building materials has been taken into account and will be a significant improvement to the existing dull concrete as shown on the photographs on plan 1301_03.



- 4.27. Facing materials will reflect areas of the local character comprising of black brick facades and charcoal aluminium cladding and frames as shown on materials plan 1301_10.



- 4.28. The appeal plot is opposite a group of farm dwellings and outbuildings but would create a new and different character. The existing former water tower is enclosed and partly screened by hedging and large trees. Consequently, whilst a significant feature in the area, the proposed changes would make a positive contribution to the area's character.

- 4.29. Section 12 of the NPPF provides an overarching objective of achieving well-designed places. Paragraph 130 of the NPPF states that planning policies and decisions should ensure developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. The council have no objection to the design of the proposed development. The proposal would largely retain the form of the existing feature but the use of some contrasting materials (such as timber cladding), carefully positioned glazing, would effectively break up the mass and bulk of the existing structure while retaining its existing form.

- 4.30. The new glazed openings serving the development would have flush slim line profile frames and the proposed use of anti-

reflective glazing. The combination of limited glazing facing the road and the use of anti-reflective glazing would minimise light splay into the surrounding area. Existing landscaping on site would also assist with this as well as any proposed planting scheme. It is anticipated that full manufacturers specifications of the anti-reflective glazing can be secured by condition if approved.

- 4.31. Final details of the finishes and materials can be secured by condition as a result, as well as details of hard and soft landscaping and the full manufacturer's specification of the proposed anti-reflective glazing to be used. If required, a condition removing Schedule 2, Part 1, Class C Permitted Developments Rights can be imposed on any permission given, to ensure additional glazing is not inserted following completion of the development.
- 4.32. Tree protection measures can also be subject to conditions if required. A cell web root protection access can be used during construction to ensure the protection of tree routes during this process.
- 4.33. Overall, it is considered the proposal represents an opportunity to convert an existing disused building to create an innovative and high quality home while retaining the general form the former water tower. The contemporary design of the dwelling would add interest and variety to the street making a positive contribution to the character and appearance of the area and the street scene.
- 4.34. The effect on openness is a key issue as openness is an essential characteristic of the countryside. The relevant policy paragraphs are listed above. As the building already exists, it is considered that the scheme visually and physically does not reduce the openness of the countryside, and by reason of the enclosed and well screened context, would not result in any material harm. Harm is not defined in the NPPF as this is dependent upon various factors including the scale, design and character, the location of the property and its visual impact on the wider area and the design and character of the dwelling proposed. There would not be a harmful loss of the openness of the countryside in this case.
- 4.35. In addition, it would not cause any encroachment upon the countryside and therefore it is concluded that the scheme does not cause unacceptable harm to the character and appearance of the area and the visual amenity of the countryside.

- **Refusal Reason 2**

- 4.36. Reason 2 states: ***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).***
- 4.37. However, we do not accept that the site is located within an unsustainable countryside location. It is not an isolated position. Situations identified in policy such as re-use of buildings confirms the acceptable nature of the application site for housing. As such the proposal can be considered to be sustainable development.
- 4.38. Policy DM4 of the SADMP states that development in the countryside will be considered sustainable where:
- 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.*
- 4.39. The proposal would not conflict with any of these provisions as discussed above, being an existing building.
- 4.40. The National Planning Policy Framework (NPPF) suggests that applications for development should be considered in the context of the presumption in favour of sustainable development and planning applications that accord with the policies in the Local Plan will be approved without delay unless material considerations indicate otherwise.
- 4.41. Paragraph 8 of the NPPF states that in achieving sustainable development the planning system has three overarching objectives. Considering each objective, we consider that the development proposed meets with requirements, particularly where there is pressing need for the provision of housing.
- 4.42. In particular the NPPF identifies that development's social role is to support strong, vibrant and healthy communities while the environmental role is to contribute to protecting and enhancing the natural, built and historic environment. Chapter 11 (Making effective use of land) details, in paragraph 120, that planning decisions should promote and support the

development of under-utilised land and buildings. Paragraph 174 states that planning decisions should contribute to and enhance the natural and local environment by ... remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Chapter 12 refers to good design as is achieved here.

- 4.43. Section 11 of the NPPF also places an emphasis on making effective use of land, noting that planning decisions should promote and support the development of under-utilised land and buildings.
- 4.44. Overall, we consider that the proposals comply with the NPPF and in particular with the policies referenced above. Therefore, the proposal is sustainable development.

- **Access and highways**

- 4.45. The proposals comply with national and local transport planning policies as confirmed by the highway authority.
- 4.46. Section 9 of the NPPF promotes sustainable transport. Paragraph 114 of the NPPF states that planning decisions should ensure that developments provide appropriate opportunities to promote sustainable transport modes, given the type of development and its location and a safe and suitable access to the site for all users.
- 4.47. Any proposal should ensure that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 4.48. Ultimately, development should not 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, in accordance with Paragraph 115 of the NPPF.
- 4.49. 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.
- 4.50. Although beyond any village boundary limits and although the proposed occupiers would be largely reliant on car-based travel for their daily needs, there are other options available. The majority of facilities local to the proposed development can be found in the nearby villages of Austrey, Appleby Magna and

Norton Juxta Twycross, to the north, south and east of the site respectively. The nearest bus stops are located in No Mans Heath or Austrey village, approximately 20 mins walking distance from the water tower site, with links to the towns beyond. The nearest railway station is Tamworth station, which is located around 9km to the south of the site, equating to a 35-minute cycle or 12 minute drive. Junction 11 of the M42 and Mercia Park employment area are approx. 7 mins drive or 3km away.

- 4.51. The vehicle access to the site is from Roe House Lane where the existing gated access will be retained. Adequate visibility is achievable from the access location, utilising land within the Applicant's ownership and the highway boundary.
- 4.52. The site layout demonstrates the property will have access to an extensive amount of driveway space which is considered sufficient to meet the minimum parking requirements.
- 4.53. Comments from Leicestershire Highways as indicated in the Planning officer's report are as follows:

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.

- 4.54. NPPF paragraph 115 is relevant stating 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.
- 4.55. As a result, the proposed development would not be detrimental to highway safety in the area and therefore have no severe impact on public highway safety, or on the operation or capacity of the local highway network.
- 4.56. We note that the highway authority has **no objection** to the application subject to conditions. This is a significant response that appears to have had no bearing on the final decision. The highway authority has considered both matters of highway

safety and sustainability and although concluded that the site is remote from services, we have addressed this matter above and the highway authority have no objection.

- **Other matters acceptable to the Council**

- **Parking**

4.57. Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision. 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 (Leicestershire Highway Design Guide (LHDG)).

4.58. The LHDG requires three off-street vehicle parking spaces for four-bedroom dwellings. And requires minimum parking sizes to be 2.4m x 5.5m, and an additional 0.5m in width is required the parking space is bounded by a wall, fence, hedge, line of trees or other similar obstructions on one side.

4.59. The Proposed Site Layout demonstrates that there is sufficient parking and turning facilities for at least three vehicles in accordance with the LHDG.

4.60. EV charging is also provided.

- **Trees and ecology**

4.61. The officers report states: 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.*

4.62. We would be happy to provide further details to manage trees as required by appropriate conditions should this appeal be allowed.

4.63. There is existing landscaping on the frontage and it is proposed that further landscaping be provided as indicated on the site plans. We indicate additional planting on the plans but this can be altered accordingly. It is expected that conditions will

require a full landscape scheme showing all species and full planting details.

- 4.64. Accordingly, the proposal would complement the existing pattern of development and make a positive contribution to the character and appearance of the area. Consequently, with regard to effect of character and appearance, the proposal would comply with policy DM6 of the SADMP which states that on site features should be retained, buffered and managed favourably.

- **Privacy space / Amenity Areas**

- 4.65. The site plan shows amenity areas for the dwelling. Whilst unconventional in that this does not show regular shaped garden of a standard length, it provides adequate private amenity for the dwelling with no overlooking or privacy issues.

- 4.66. 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.

- 4.67. The Good Design Guide 2022 requires the way buildings to relate to each other, and their orientation and separation distances, to provide and protect acceptable levels of amenity.

- 4.68. 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;

- 4.69. The officers report refers to amenity and we concur with their conclusions:

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.

5. Conclusion

- 5.1. The Council has been unreasonable in its determination of this application giving unbalanced weight and subjective judgement to the circumstances put forward.
- The proposal is in accordance with policy being a change of use of an existing building
 - Location sustainable with access to public transport network
 - No impact on the openness of by virtue of design, topography & landscaping,
 - High quality design, with the opportunity to implement sustainable construction & innovative design
 - The proposal will offer a significant increase in Bio-Diversity of the site and improved maintenance of trees, hedgerows & ditches
 - No statutory objections & no adverse impact on highway safety from the new access points
- 5.2. We therefore do not consider that the proposal would fail to comply with the objectives of local and national policies outlined. It would form a well-designed building and good layout, creating an environment that would have a positive impact on the street scene, maintaining an open character due to transient vehicles and being in keeping with the character and appearance of the area.
- **Planning Balance**
- 5.3. This scheme complies with policies of both the NPPF and local plan in that it secures a re-use of an existing building. In considering whether the proposals constitute sustainable development, how the development performs against the objectives and policies of the NPPF as a whole should be considered.
- 5.4. The NPPF offers a model policy for sustainable development with the key test being whether there is significant harm that outweighs the benefits as follows:
- 5.5. *“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the Framework. The Council will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area”.*

- 5.6. *“...this means approving development proposals that accord with an up-to-date development plan without delay or..., granting permission unless 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 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.*
- 5.7. Therefore, we have put forward a series of significant benefits which cumulatively comprise circumstances unique to this site and form of development. We have already established that the change of use is a sustainable for of development that meets with the sustainable requirements of local policy and the NPPF as a whole. As indicated above, the site is also relatively near to towns and villages and not in a totally remote area.
- 5.8. No precedent would be set as there are no other buildings of the same nature as this, located amongst a backdrop of trees, adjacent to an existing house and outbuildings.
- 5.9. The additional house will of course help contribute to the Local and national shortage of housing supply, irrespective of any current housing supply figures within the district.
- 5.10. Amongst other things, the Framework promotes an effective use of land in order to meet the need for homes, while safeguarding and improving the environment. In rural areas, development should be responsive to local circumstances, reflect local needs and be supported where it will enhance or maintain the vitality of rural communities. Both the NPPF and local plan identify the change of use of existing buildings as being acceptable. The scheme is a conversion to a large dwelling which would meet a specific housing need. There would also be a small increase in local household spending and demand for services, in nearby settlements and further afield and therefore modest weight should be attributed to these aspects of the proposal.
- 5.11. It is considered that the development of the site for a dwelling is acceptable development that would result in a positive visual change to the character of the area. The benefits that have been identified and accordingly, weight can be attached to those positive aspects of the development proposal as set out above. We do not consider that the council has assessed the scheme in accordance with policy which clearly allows re-use of buildings. The only matter that the council can identify as contrary to policy is the design and amount of windows.
- 5.12. Due to the countryside setting and local landscape, the options for new housing development are limited and as such making the most efficient use of land is most important.

- 5.13. We have considered the three dimensions to sustainable development set out in the NPPF collectively and weighed them in the balance when assessing the suitability and sustainability of development proposals.
- Environmentally, the development will sit well within the site and in relation to the surrounding dwellings due to its scale, design, siting and contrasting materials. The proposed house will be designed to achieve as near net zero carbon footprint as possible and should be accorded significant weight. The proposal will also deliver a net gain to biodiversity within the site and contribute to the setting.
 - Socially, the development would create a bespoke new family dwelling within an existing building.
 - Economically the development will provide a small scale development project adding to housing stock and indirectly to the creation of additional jobs and income generation for the area through both the construction phase and future residents living in the area.
- 5.14. Having regard to the above, it is considered that the proposed development would create positive economic benefits, moderate social benefits and a positive environmental impact.
- 5.15. Consequently, the development of this site weighs in favour of permitting the development proposed and, due to the reasons outlined above, it is considered that the development would be sustainable in the context of the planning balance.
- 5.16. We have shown that the scheme will be of exemplary building design, construction and landscape, integrating with its surroundings harmoniously, reflecting the highest standards in architecture, incorporating sustainability in terms of materials, methods, technology and conservation. It will significantly enhance its immediate setting. Our design will stand out architecturally but also blend in to establish a meaningful connection between the structure and the landscape it sits in.
- 5.17. We consider that in terms of the planning balance, we have demonstrated that the benefits of the development outweigh any perceived harm on the countryside, where there is a national shortage of housing and in particular a lack of this particular type of dwelling in the region, which the development would meet. We would be raising the quality of design in the surrounding area through good architecture and significant sustainability benefits. We would also bring biodiversity improvements and management of the trees and hedges, while the scheme would not have an adverse impact upon the surrounding highway; neighbouring amenity; or ecology conditions.

- **Precedent**

- 5.18. We note that schemes for changes of use from water towers to dwellings have been granted planning permission that are very similar to the appeal proposals and provide good examples of approved precedent, which should be taken into account in any decision.
- 5.19. The first example is Appeal Ref: APP/X4725/W/17/3173464, where the appeal was allowed for the change of use of a water tower to a dwelling in July 2016. That appeal site is within the Green Belt, so the main issues were regarding inappropriate development and secondly, its effects on the character and appearance of its surroundings. The Inspector concluded that the proposed development would not be inappropriate for the purposes of the Framework, and that the appeal scheme would result in the change of use of a rural building for residential use without disproportionate extension or a major increase in the developed proportion of the site.
- 5.20. Regarding character and appearance he stated that:

The appeal site, whilst having an engineered and functional character is nevertheless an example of a building not uncommon within rural areas. The tower itself is a striking feature within its open surroundings and in its current form offers a marked, but not unpleasant, contrast to its wider setting. The proposed development, whilst introducing extensions and fenestration to the appeal building would not do so in a way that utterly obscured the original form or character of the building, and would use a palette of materials sensitive to those existing.

Moreover, due to the extensive glazing employed, the suspended floor would have a lightweight appearance and would thus not impart a dominant or bulky character to the appeal building in the context of its open environs. I note that the glazing may allow some views of domestic paraphernalia within; however, given the relatively close range within which such views could be glimpsed, I consider that this matter does not weigh heavily against the proposed development.

Consequently, due to these matters, taken together with the materials, form and siting of the existing building, the proposed development would not read as an incongruous feature in the landscape, and would consequently avoid causing significant harm to the character and appearance of its surroundings. As a result, the proposed development would not conflict with Policies (D8 and D9 of the Development Policies) insofar as they seek, amongst other things, to ensure that development within the countryside contributes towards the protection, maintenance and enhancement of the character of the district's landscape.

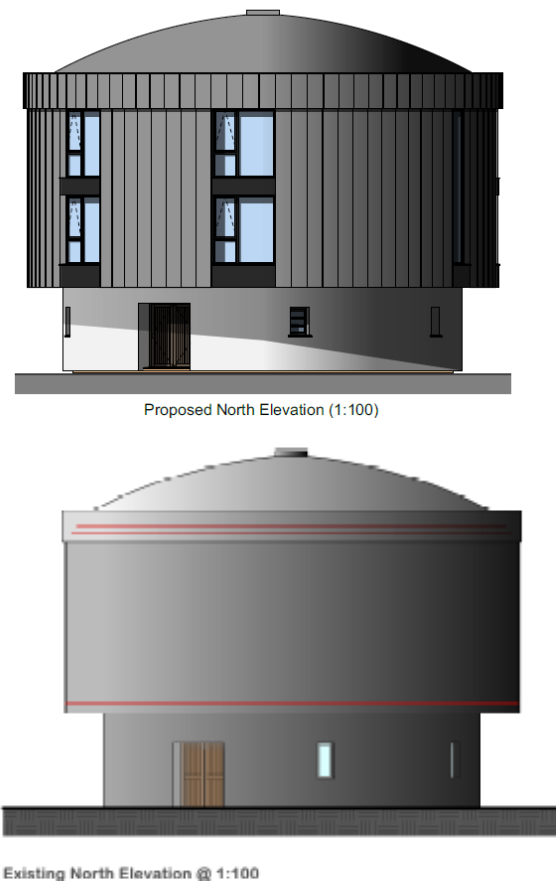


- 5.21. In a further example granted in 2018 in an AONB, Although the original permission was granted under Part P a full application was later submitted for various changes to the external envelope, but ultimately the Officers concluded that the proposed design will provide an enhancement to the appearance of the existing building. An extract from an officers report taken from a planning approval that was granted for the conversion of the water tower below.

The proposed design will provide an enhancement to the appearance of the existing building whilst retaining the former industrial appearance. It to be noted that the site is within close proximity to the protected landscape of the AONB however, it is considered that the proposed grey powder finish of the external cladding will not result in any significant glare and visual intrusion upon public views from the AONB. The proposal will also enhance the boundary treatment of the site of through the proposed landscaping scheme and therefore will be conditioned to be implement and retained to enhance the rural landscape.

It is to be noted given the Class P consent the site does not benefit from Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no development of the types described in Part 1 of Schedule 2 therefore, the removal of permitted development right is transposed within this application. Furthermore, given the sensitivity of the site and nature of the existing built form any proposed development would need to ensure that there is no harm to the surrounding landscape and that any development is keeping with the existing built form and the site.

In summary, the proposed replacement dwelling will respect and provide a positive enhancement to the character and appearance of the site and the wider rural setting. It is therefore considered that the proposed development accords with the above relevant Policies.



- 5.22. These examples are cases that clearly comply with policy and in very similar, but yet more sensitive settings than the appeal proposals.
- 5.23. Overall our proposals would provide a number of benefits. A high quality bespoke dwelling would boost the supply of housing and make a small but still beneficial contribution to the borough's under-supply of housing land. In terms of building design, the individual house is very well-considered with sensitive materials and energy-saving features. There would be short-term employment benefits during construction and social and economic benefits that future residents would contribute to the local economy. In this respect, the scheme would also enhance the vitality of the local community. The scheme would contribute to the choice and mix of homes.
- 5.24. Therefore, for the reasons given above and having had regard to all other matters raised, the appellant respectfully requests that this appeal is allowed with any appropriate conditions that are considered necessary.

