

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990



**Hinckley & Bosworth
Borough Council**

STATEMENT OF CASE OF THE LOCAL PLANNING AUTHORITY

PLANNING APPEAL BY MR M PATEL

**AGAINST THE REFUSAL OF PLANNING APPLICATION 23/01176/FUL FOR THE
CONVERSION OF EXISTING WATER TOWER TO RESIDENTIAL DWELLING WITH
ASSOCIATED PARKING, LANDSCAPING, ACCESS IMPROVEMENT AND OTHER
WORK**

WATER TOWER, ROE HOUSE LANE, NORTON JUXTA TWYCROSS, LEICESTERSHIRE

LOCAL PLANNING AUTHORITY REFERENCE: 23/01176/FUL

PLANNING INSPECTORATE REFERENCE: APP/K2420/W/24/3343898

JULY 2024

CONTENTS:

Section 1: Introduction.....	3
Section 2: Description of the Appeal Site, the Surrounding Area, and the Proposal	4
Section 3: Site History.....	5
Section 4: Relevant Planning Policy.....	6
Section 5: Relevant Appeal Decisions.....	9
Section 6: The Case for the Local Planning Authority.....	12
Section 7: Comments on the Appellant’s Case.....	15
Section 8: Planning Balance and Conclusions.....	19
Section 9: Conditions.....	21
Section 10: Appendices.....	24

1. **INTRODUCTION**

- 1.1. This Statement should be read in conjunction with the previously submitted appeal questionnaire papers, particularly the Delegated Report, and is submitted in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission for the conversion of existing water tower to residential dwelling with associated parking, landscaping, access improvement and other works at Water Tower, Roe House Lane, Norton Juxta Twycross, Leicestershire.

2. **DESCRIPTION OF THE APPEAL SITE, THE SURROUNDING AREA, AND THE PROPOSAL**

- 2.1. Section 3 of the Delegated Report sets out a description of the site and surrounding area and this is not repeated here.
- 2.2. Permission is sought for the conversion is a disused water tower into a single dwelling on land in an isolated position within the countryside and accessed via a byway that is currently inaccessible to normal cars. The access lies within the administrative boundaries of both North West Leicestershire District Council and North Warwickshire Borough Council with the entirety of the curtilage of the site lying within Hinckley and Bosworth. The red application site boundary was revised to exclude any land lying outside of Hinckley and Bosworth. It is agreed that there is a right of access to the site for all vehicles and that beyond the site the track may only be used by pedestrians, cyclists and horse riders. The application is made in full and includes an extension to the roof of the water tower and provision of a parking area for four vehicles.
- 2.3. A plan showing the original red line site boundary and how that is divided between the three authorities is attached at Appendix 1. North West Leicestershire is shown in orange, Hinckley and Bosworth in green and North Warwickshire in black.

3. **SITE HISTORY**

3.1 There is no relevant planning history.

3.2 The application that is the subject of this appeal was refused under delegated powers for the following 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).

4. **RELEVANT PLANNING POLICY**

- 4.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 provide that planning decisions must be made in accordance with the development plan unless there are material considerations to indicate otherwise.
- 4.2 It is the National Planning Policy Framework December 2023 (NPPF) (the Framework) is of key relevance to this appeal. Paragraph 2 confirms 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.
- 4.3 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.
- 4.4 Paragraph 11 of the Framework sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay or that where there are no relevant development plan policies, or the policies that are the most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
- 4.5 The City Council acknowledges that it cannot currently demonstrate a five-year housing land supply of deliverable sites. It is confirmed that it is a five year rather than a four year figure that is relevant to the Borough's particular circumstances. The current supply of such sites in the borough provides a supply for 4.89 years and therefore, as set out at footnote 8 of the Framework, the presumption set out in paragraph 11d) would apply.
- 4.6 Paragraph 3 sets out that the Framework should be read as a whole (including its footnotes and annexes). This point is considered of particular importance with regard to this appeal.
- 4.7 Paragraph 83 relates to rural housing and states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The LPA will set out that the proposal fails to accord with the requirements of this paragraph.
- 4.8 Paragraph 84 states that planning decisions should avoid the development of isolated homes in the countryside unless any of five circumstances apply. Part c) is that the development would re-use a redundant or disused building and enhance its immediate setting and part e) is that 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. The LPA will set out that the proposal fails to accord with either part of paragraph 84.

- 4.9 Chapter 9 of the NPPF relates to the promotion of “sustainable transport,” and paragraph 114 requires that in assessing applications for development it should be ensured that safe and suitable access to the site can be achieved for all users. The LPA will demonstrate that this is not achieved by this development.
- 4.10 Paragraph 116 states that applications should create places that are safe, secure and attractive and that minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character. The LPA will demonstrate that the proposed development does not achieve this.
- 4.11 Chapter 11 of the Framework is concerned with making effective use of land and paragraph 124 states that planning decisions should promote and support the development of underutilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively. It is noted that the Appellant does not refer to this part of paragraph 124 in their Statement – their reference to paragraph 124 is in fact to paragraph 128. It clearly supports the application, but the LPA will demonstrate that when taken as a whole the Framework does not support the proposal.
- 4.12 Paragraph 128 relates to achieving an appropriate density of development and is relevant to the appeal as it states that planning decisions should support development that makes efficient use of land, taking account of the availability and capacity of infrastructure and services and the scope to promote sustainable travel modes that limit future car use. It also states that decisions should take into account the desirability of maintaining an area’s prevailing character and setting. The LPA will demonstrate that the proposal is contrary to the requirements of this paragraph.
- 4.13 Chapter 12 of the NPPF provides guidance aimed at “Achieving well-designed places” and paragraph 131 sets out that the creation of high quality, beautiful and sustainable places is fundamental to what the planning and development process should achieve. 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. The LPA will argue that the proposal is not supported by this paragraph.
- 4.14 Paragraph 135 states that decisions should ensure that developments will add to the overall quality of the area, not just for the short term but over the lifetime of the development and that they are visually attractive. It requires that developments are sympathetic to local character and history, including the landscape setting and that development creates places that are safe, inclusive and accessible and which promote health and well-being.

- 4.15 Chapter 15 of the NPPF sets out the Government's approach to achieving the objective of "Conserving and enhancing the natural environment". It is not a section of the Framework that the Appellant considers of relevance to the appeal. Paragraph 180 states that decisions should contribute to the local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services and of trees and woodland.

5. RELEVANT APPEAL DECISIONS

- 5.1 There is just one appeal decision within the Borough that is considered of particular relevance to this appeal and that is subsequently a material consideration in the determination of this appeal. The appeal relates to a part conversion and part new build to provide a dwelling within the countryside.

Appeal at Kendals Barn, Ashby Road, Osbaston, CV13 0HS
APP/K2420/W/20/3259881) (Appendix 2)

- 5.4 The Inspector determining the application considered that the main issue was whether the appeal site was a suitable location for new housing. At paragraph 8 of the appeal decision the Inspector confirms that the existing buildings are attractive, modestly sized and typical of their rural agricultural setting, making a positive contribution to the rural character of the area.
- 5.5 This is similar to the current appeal in that although unusual water towers are a familiar feature within rural areas. The officer Report on the appeal scheme points out at paragraph 8.24 that water towers are features that are occasionally encountered within the open countryside.
- 5.6 At paragraph 9 of the decision letter the Inspector notes that the proposed extensions to the existing building are large and would have a significant effect on the character and appearance of the existing building resulting in its simple form being eroded by the proposed extension.
- 5.7 It is considered that this is very similar to the current appeal. The rooftop extension is not large, but it would be prominent in both long distance, medium distance, and short distance views given the prominent siting of the water tower. The conversion would have a significant effect on the character and appearance of the existing building, and in this case the wider area, and the simple form of the existing building would undoubtedly be eroded.
- 5.8 Paragraph 10 of the decision letter confirms the Inspector's view that the amount of built form in that case would erode the rural setting of the building, a point that the LPA makes about the effect of the proposals on the water tower in this appeal. Paragraph 10 goes on to state that there would be a harmful effect on open, largely undeveloped character and appearance of the countryside in this location. The Inspector found that the proposal would introduce additional vehicles and activity associated with a dwelling into the rural landscape along with a likely proliferation of domestic paraphernalia which was considered not to lead to an enhancement of the immediate setting but to have the opposite effect of degrading it. As such the Inspector considered that the scheme did not comply with the requirement of part b) of Policy DM4 to enhance the immediate setting of the site.
- 5.9 The LPA considers that there are very considerable similarities between that appeal and the current proposal in as much as it is considered that the current proposals are considered to have a detrimental effect on the undeveloped character and

appearance of the countryside in this location and also introduce vehicles on a local byway where currently there are very few and where the proposals would also result in a likely proliferation of domestic paraphernalia.

5.10 The Inspector concluded that the proposal was contrary to Policies DM4 and DM10. It was agreed that paragraph 11d) of the Framework was engaged and the re-use of an existing building, its self-build nature and the contribution to the council's supply of housing were considered to cumulatively carry moderate weight. The economic benefits were considered by the Inspector to carry limited weight. In the planning balance though the Inspector found that Policy DM4 was consistent with the Framework and that the benefits identified were significantly and demonstrably outweighed by the harms caused by the proposal that were in conflict with DPD Policies DM1, DM4 and DM10 and the policies of the Framework taken as a whole. The proposal was not considered to be sustainable development and the appeal was dismissed.

5.11 The Appellant refers to two appeal decisions but provides references for only one.

[Appeal at Flockton Water Tower, Bar Lane, Wakefield, WF4 4AU APP/X4725/W/17/3173464](#)

5.12 The appeal does relate to a water tower and the site is within the countryside. The similarities are considered to end there though. As can be seen from the image below taken from Google Street view and dated September 2020, the water tower sat alongside the A637 and was entirely unscreened by vegetation. It was in a highly prominent position and seen by many people at close quarters on a daily basis.



- 5.13 This contrasts with the appeal proposal which is seen at close quarters by far fewer people when they travel on a restricted byway. The current tower is screened by trees which reduce but do not hide views of the tower from longer distances. Introducing a residential use to the Flockton Water Tower makes it no less or more visible than it already is. Introducing a residential use to the appeal water tower significantly increases its visibility and its extent of change on its setting.
- 5.14 The Flockton example was refused principally due to its harmful effect on the openness of the Green Belt and the Inspector's decision letter clearly sets out why it was felt that the proposals had minimal harm. It is noted though that compared with the approved plans the curtilage of the Flockton tower is far greater than the Inspector has envisaged, and the approved plans showed no changes to the roof, which is in considerable contrast to the finished result as can be seen on Google street view and as shown in the Appellant's Statement.

6 THE CASE FOR THE LPA

- 6.1 The two reasons for refusal are set out above at paragraph 3.2. Section 8 of the Council's Delegated Report sets out the reasoning behind the refusal of permission and this Statement seeks to avoid repeating the points that are made there. The Delegated Report should be read alongside this Statement and together they form the case for the LPA.
- 6.2 The LPA considers that its case is made well in the Delegated Report. This statement will seek to minimise repetitions of the points that have already been made.
- 6.3 The Delegated Report sets out the Council's main concerns that the proposed development would have a significant detrimental effect on the intrinsic value, beauty and character of the area and wider countryside at the appeal site and that it would result in a dwelling being located in an unsustainable countryside location where future occupiers would be reliant on private car journeys to meet their day to day needs.
- 6.4 Below is an image of the site within its wider setting. The image is dated May 2012, and the bulk of the tower is clearly discernible. The very rural nature of the site can be appreciated as can the long distance visibility of the site. There are no street lights within the vicinity of the site and the roads have no footways.



- 6.5 The image above gives just an indication of the rural nature and highly visible nature of the site and surrounding area that will be fully appreciated by the site visit. It is the opinion though of the LPA that the proposed development represents residential development where the environmental harms resulting from the domestication of the building and the site significantly and demonstrably outweigh the benefits of development.

- 6.6 The development of a dwelling would represent a significant domestication of the site. The Appellant fails to acknowledge that the domestication of the appeal site fundamentally, and adversely, alters the character of the site and the surrounding area. This harm is exacerbated by residential paraphernalia that is likely to be associated with the new development such as children's play equipment, sheds, bin storage, parking and turning areas, amongst others, which would contrast significantly with to the prevailing rural and largely verdant character of the site and the surrounding countryside. This harm to the site and countryside is exacerbated by the site being so widely seen in both long, medium and short distance views, and in particular those close views that result from the site being located directly adjacent to the unrestricted byway.
- 6.7 The development fundamentally and detrimentally effects the character of the site, the surrounding area, and the countryside through its revised built form and domestication of the site. In addition, the scheme does not respect the rural settlement pattern of the area. As a result of all these factors, the development is considered to result in significant and irreversible harm to the intrinsic value, beauty and character of the countryside. This harm is contrary to policies DM4 and DM10 of the SADMP which seek to protect the countryside from unsustainable development and complement or enhance the character of the surrounding area with regard to a range of factors that include scale, layout, density and mass.
- 6.8 Policy 17 of the SADMP states that development proposals will be supported where they seek to ensure that there is a convenient and safe access for walking and cycling to services and facilities. The site lies in an isolated location remote from any settlement. There are no footpaths on local roads and bus stops are not within an easy walk of the site even if there had been any street lighting or footways. There are no cycle lanes at all. The location of the appeal site is such that it provides neither convenient or safe access for walking or cycling to services and facilities.
- 6.9 Policy DM17 also states that proposals will be supported where the need to travel will be minimised and the use of sustainable transport modes will be maximised. The bus service in Austrey is over 1.5km from the site and although it provides 10 buses between Austrey and Tamworth town centre it is not considered that realistically anyone choosing to live at the appeal site would also be choosing to access these bus services or the local primary school in Austrey by foot or would choose to access the nearest shop in Austrey, which is approximately 2.5km from the site, on foot. The appeal site is not considered to be located where the need to travel will be minimised. It is considered that quite the opposite is the reality of the location. Neither is it considered that the appeal site is located where the use of sustainable transport modes can be maximised. It is considered that the location is such that the remotest possibility that future occupiers might use public transport is the best that might be said of the appeal site given the isolated location, lack of footways and street lighting, the distance to the nearest bus stop and the frequency of the bus service.

- 6.10 It is considered that allowing the appeal would not promote genuine alternatives to private motorised travel. This is ultimately considered to result in the future occupants of the appeal proposal being dependent on private motorised vehicles to meet their day-to-day needs, which causes significant environmental harm contrary to the aims and objectives of the Framework as expressed at paragraph 124c).
- 6.11 It is the view of the Local Planning Authority that the Appellant is simply relying on the fact that the proposal re-uses an existing structure to justify unsustainable development that is not supported by either national or local planning policy and that would have a significant detrimental effect on the character of the site and surrounding area that is viewed in long and medium distance views given the location of the tower and viewed at close quarters by those using the unrestricted byway.

7 COMMENTS ON THE APPELLANT'S CASE

- 7.1 At paragraph 1.5 of their Statement the Appellant asserts that they consider the development to be well-designed and sustainable. Firstly the Council's reasons for refusal do not relate to the quality of the design – it is noted that the Appellant is only half-hearted seeking to make a case that the proposal is of exceptional design. This point is addressed in greater detail below. Secondly the Appellant ignores the entirely unsustainable location of the site where safe and suitable access to the site cannot be achieved for all users and minimise the conflict between pedestrians, cyclists and vehicles, given the lack of street lighting, the isolated location, the lack of footways and the narrowness of the access byway, contrary to paragraphs 114 and 116 of the Framework. In addition the Appellant ignores paragraph 128 of the Framework with regard to promoting sustainable transport modes that limit future car use. It seems that the Appellant is putting all their sustainability eggs into the basket that is the fact that the proposal re-uses an existing structure.
- 7.2 The point made above regarding the Appellant's very narrow view of sustainability is borne out by paragraph 1.6 of the Appellant's Statement which asserts that the site cannot be considered unsustainable. The Appellant considers the site to be overgrown and unkempt – another way of looking at the site is that it is natural space beside a restricted byway where nature would be expected to be given free rein.
- 7.3 The Appellant asserts at paragraph 1.6 of their Statement that the new dwelling would be of exceptional quality. The LPA strongly refutes this suggestion. There is no objective basis for this assertion. The Design and access Statement submitted with the application simply quotes part e) of paragraph 84 of the Framework but makes no claims, quite reasonably, that the dwelling is of exceptional design quality. The Design and Access Statement runs to just 14 pages and appears to have been written by planning consultants, not architects. The attempt to justify the proposals on the basis that they comply with part e) of paragraph 84 of the Framework appear to belong in the category of throwing enough in the hope that some will stick tactics that simply lend less credence to and devalue the merits of the Appellants other grounds for appealing the decision.
- 7.4 At paragraph 1.6 of their Statement the Appellant also misses the point that in an isolated site within the countryside that sits directly adjacent to a restricted byway, managed landscaping which would accompany a turning area and four parking spaces, the dwelling and its associated domestic paraphernalia, would appear as an incongruous, alien, and uncharacteristic feature in these site specific circumstances.
- 7.5 Paragraph 1.7 of the Appellant's Statement appears to repeat the half-hearted attempt at justification for the proposals under part e) of paragraph 84 of the Framework. As noted above the Council has not refused the scheme on the basis that the design is poor.
- 7.6 At paragraph 1.9 of their Statement the Appellant does not add that these applications to the adjoining planning authorities were withdrawn before any decisions were made.

- 7.7 Paragraph 1.10 of the Appellant's Statement is refuted. It is simply wrong to claim that no consideration has been given to the circumstances put forward by the Applicant and as demonstrated above the applicants specifically failed to claim that the design was of exceptional design quality. For the Appellant to introduce the claim that the design is of exceptional quality in their appeal statement while at the same time claiming that the LPA gave no consideration to the quality of the design is, at the very least, ironic.
- 7.8 As noted above at paragraph 4.15 of this Statement the Appellant fails to recognise that Section 15 of the Framework that relates to conserving an enhancing the natural environment is relevant to the appeal or that decisions should recognise the intrinsic character and beauty of the countryside as set out at part b) of paragraph 180 of the Framework.
- 7.9 The policy conclusion that the Appellant draws at paragraphs 3.18 to 3.25 of the Appellant's Statement are rejected given that all the Appellant has done is to list policies from the Development Plan and extracts from the Framework. It is simply asserted that the development would enhance the setting of the site without any meaningful justification. Paragraph 3.24 does correctly identify benefits of the scheme but fails to acknowledge any harms.
- 7.10 Having failed to acknowledge any harms that arise from the development it is of little surprise that the Appellant then claims at paragraph 4.1 of their Statement that the LPA has not undertaken an objective planning balance exercise. The Delegated Report clearly sets out at paragraphs 8.42 to 8.49 and specifically notes that the application relates to the conversion of an existing disused structure.
- 7.11 At paragraph 4.13 it is not agreed that the water tower is an uncharacteristic feature within the countryside and landscape. As is pointed out at paragraph 9 of the Inspector's decision letter in the Flockton Water Tower appeal raised by the Appellant such towers are "not uncommon in rural areas".
- 7.12 With regard to paragraph 4.15 of the Appellant's Statement it is noted that paragraph 226 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their degree of consistency with the Framework and the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. As set out in the one appeal decision that the LPA seeks to bring to the Inspector's attention, the Inspector in that decision confirmed at paragraph 17 that Policy DM4 was not out-of-date in regard to considering the impact of a proposal on the character of the countryside and confirmed that Policy DM4 is consistent with the Framework in terms of its presumption in favour of sustainable development. It is further considered that both Policies DM10 and DM15 are consistent with the Framework.
- 7.13 Paragraph 4.17 of the Appellant's Statement again makes the point regarding the design quality of the proposal which is addressed above and again fails to

acknowledge the impact of the conversion of the water tower into a dwelling on the character of the site and surrounding area in terms of the parking areas, the bin storage, the garden landscaping and the domestic paraphernalia that are a consequence of conversion of the tower to a dwelling. That the Appellant fails to acknowledge this is of concern given that the Inspector in the Flockton Water Tower appeal made considerable reference to these impacts. This failure to acknowledge these inevitable impacts is repeated at paragraph 4.19 and 4.21 of their Statement.

- 7.14 The repeated unsubstantiated claims made at paragraph 4.25 of the Appellant's Statement that the building is in any way exemplary and that it will significantly enhance its immediate setting are rejected for the same reasons as are set out above.
- 7.15 The Appellant fails to understand the point that the LPA is making with regard to part b) of Policy DM15 at paragraphs 4.21 and 4.23 of their Statement. In acknowledging that structural alteration is required in order to convert the tower the Appellant fails to demonstrate that the tower is capable of conversion without significant alteration.
- 7.16 Of key concern though is the claim that the Appellant makes at paragraph 4.34 of their Statement that the effect on openness is a key issue. The words 'open' or 'openness' do not feature at all in the decision notice. The Appellant is, putting is simply, making things up. Openness was a key issue in the Flockton decision but is not in this current appeal given the site has significant but partial screening and that the site does not lie within the Green Belt.
- 7.17 The LPA does not agree with the Appellant's Statement at paragraph 4.37 that the site is not isolated or in an unsustainable location. The Appellant offers nothing to back up their view and again simply relies on the fact that the proposal would re-use an existing structure to bat away all concerns
- 7.18 Paragraph 4.39 again fails to acknowledge the impacts of the parking, the bin store the garden landscaping, the comings and goings and the associated domestic paraphernalia on the character of the site and the surrounding area and at no point in their Statement does the Appellant acknowledge that lying alongside a restricted byway the site would be highly visible to anyone using the byway – it is as if the byway does not exist in the mind of the Appellant.
- 7.19 The conclusion the Appellant reaches at paragraph 4.44 of their Statement that the proposal is sustainable development is based on no critical assessment or reading of the Framework as a whole as is clearly required by paragraph 3 of the Framework.
- 7.20 The suggestion made by the Appellant at paragraph 5.1 of their Statement that the Council has been unreasonable is rejected and from an objective assessment of the Appellant's statement it is considered that the boot is on the other foot in this instance.
- 7.21 The Council disagrees that significant benefits result from the development as the Appellant seeks to argue at paragraph 5.7 of their Statement and rejects the

assertions made at paragraph 5.16 and 5.17. There is no evidence that the scheme would enhance biodiversity on the site or that approval of the scheme would raise quality of design in the surrounding area.

8 PLANNING BALANCE AND CONCLUSIONS

- 8.1 The most important policies for the determining of this appeal those set out in the two reasons for refusal.
- 8.3 It is acknowledged that the tilted balance as set out at paragraph 11d) of the NPPF is engaged due to the Council's current inability to demonstrate a five-year housing land supply. Accordingly, permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.4 Policy DM17 of the SADMP requires that development seeks to ensure that there is convenient and safe access for walking and cycling to services and facilities and that the development is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 8.5 The proposed dwelling is considered to be located in a position within the countryside, isolated from any settlement. Given the lack of footways and street lighting it is considered that **significant weight** should be given to the lack of a safe and suitable access route to services and facilities from the site for all users.
- 8.6 Given the distance to the nearest bus stops and the isolated location of the site it is considered that **significant weight** should be given to the likely need of future residents to rely on the use of a private vehicle for day-to-day access to services, facilities and employment opportunities.
- 8.7 It is the Council's case that the proposed development would have a significant detrimental effect on the intrinsic value, beauty and character of the area and wider countryside contrary to Policies DM4 and DM10 of the SADMP.
- 8.8 The detrimental impacts on the character and appearance of the area are considered to attract **significant weight**.
- 8.9 Policies DM4 and DM10 are consistent with the Framework with regard to protecting the countryside from unsustainable development.
- 8.10 Policy DM4 is clear that it is protection from unsustainable development that is sought as opposed to a blanket protection of all countryside. As DM4 does not seek a blanket protection of the countryside but rather seeks a protection from unsustainable development there is broad consistency with the NPPF which sets out a presumption in favour of sustainable development. The matter of whether a development can be considered sustainable or not is a product of the overall planning balance.
- 8.11 It is considered that the conflict with Policy DM4 of the SADMP should be afforded **significant weight**.

Benefits arising from the development

- 8.12 The LPA acknowledges that there are social benefits arising from the provision of market housing for which there is a need. As this is a single dwelling only though this is a benefit to which **limited weight** should be given. This weighting is consistent with the two appeal decisions referred to above that related to provision of a single dwelling.
- 8.13 Economic benefits would arise from the scheme through jobs and spend during the construction phase and through economic activity of any future population. This benefit is also considered to carry **limited weight**. This weighting is also consistent with each of the Inspectors decisions referred to above that related to the provision of a single dwelling.
- 8.14 The environmental benefits arising from the re-use of an existing structure are reduced by the fact that the structure cannot be converted without significant structural work. Any environmental benefits are considered to carry limited weight.

Overall Balance

- 8.15 Paragraph 8 of the NPPF states that there are three overarching objectives to achieving sustainable development and that these are interdependent and need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.
- 8.16 The development of the appeal site would fail to meet the environmental objective of sustainable development.
- 8.17 Assessed against a presumption of sustainable development set out in the Development Plan and in the NPPF when balancing the social, environmental and economic aspects of the development, the proposal is not considered to promote sustainable development. Whilst there are limited social, economic and environmental benefits those limited benefits that there are these come at costs to the environment that are significant, as well as social costs, through the lack of a safe route to and from the site, that are considered significant and social costs through the unsustainable location of the site and the reliance of future occupiers on a private vehicle, that are also considered to be significant.
- 8.18 Weighing the totality of harm and taking all the above into account, it is considered that the adverse impacts of the appeal scheme would significantly and demonstrably outweigh its benefits. As such the development is not considered to represent a sustainable form of development. The LPA therefore requests that the appeal should be dismissed. However, if the Inspector is minded not to do so, the Local Planning Authority requests that the conditions suggested below be attached.

9 CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:
 - Site Location Plan 1301_04 Rev A
 - Proposed Site Plans 1301_02
 - Proposed Floor Plans 1301_10
 - Proposed Elevations 1301_11

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Code 6 Developments Ltd drawing number 1301_02. Thereafter the onsite parking and turning provision shall be kept available for such uses in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with the National Planning Policy Framework (Dec 2023).

4. No part of the development hereby permitted shall be occupied until such time as 2.0 metre by 2.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of pedestrian safety and in accordance with the National Planning Policy Framework (Dec 2023).

5. The development hereby permitted shall not be occupied until such time as the access drive and any turning space has been surfaced with tarmacadam, or other similar hard bound material (not loose aggregate) for a distance of at least 5metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (Dec 2023).

6. The development hereby permitted shall not be occupied until such time as the top section of the existing access road towards the development has been surfaced with tarmacadam, or other similar hard bound material (not loose aggregate) and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (Dec 2023).

7. No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. The development hereby permitted shall not be first used until such time as the scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning Authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

9. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted in writing to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be

implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10 APPENDICES

Appendix 1: A plan showing the original red line site boundary and how that is divided between the three authorities.

Appendix 2: Appeal at Kendals Barn, Ashby Road, Osbaston, CV13 0HS APP/K2420/W/20/3259881).