



Appeal Decision

Site visit made on 23 April 2025

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04th June 2025

Appeal Ref: APP/B2355/W/24/3346310

Former Water Tower, Milne Street, Irwell Vale, Bury, BL0 0QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr N Magee against the decision of Rossendale Borough Council.
 - The application Ref is 2024/0080.
 - The development proposed is Change of use, conversion and extension of former water tower to form a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal, changes to the National Planning Policy Framework (the Framework) were adopted on 12 December 2024. The main parties in the appeal have been given the opportunity to make additional comments and I have considered those responses accordingly.

Main Issues

3. The main issues are:
 - Whether or not the proposal is inappropriate development in the Green Belt;
 - the effect of the proposed development on:
 - highway safety,
 - the character and appearance of the area,
 - the living conditions of future occupiers with particular regard to privacy; and,
 - if the proposal is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances to justify granting planning permission for the development.

Reasons

Whether inappropriate development

4. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their

permanence. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5. Policy SD2 of the Rossendale Local Plan (the RLP) seeks to direct development to within the Urban Boundaries unless it specifically needs to be located within the countryside. However, the policy is otherwise silent on the specific types of development that the Council considers not inappropriate in the Green Belt. In accordance with Paras. 231-232 of the Framework, the provisions in its Section 13 therefore prevail.
6. Paragraph 154 of the Framework sets out that development in the Green Belt is inappropriate unless a specified exception. Of the exceptions, the appellant directs me to the provisions in (now) Paragraphs 154 c), g), h)ii, h)iv and h)v¹ and the new 'grey belt' provision in Paragraph 155. The paragraph 154 provisions refer to the extension or alteration of a building, the partial or complete redevelopment of previously developed land, engineering operations, the re-use of buildings, and material changes of use of land respectively.
7. Paragraph 154 h)iv provides for the re-use of buildings of permanent and substantial construction provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
8. The former water tower consists of four walls with a single doorway opening. Some brickwork from the upper parts of the walls has been recently removed. Despite the absence of any roof or internal rooms, as a structure or part of a building, the existing development falls within the definition of a 'building' as defined by s336 of the 1990 Act.
9. The appellant's structural assessment of the walls and foundations concludes that, aside from a requirement for minor repair or enhancement works, the building is structurally sound and capable of conversion. This is not disputed by the Council. The evidence and observations at my site visit lead me to conclude that the building, designed to support a significant weight of water, is of permanent and substantial construction.
10. Whether the re-use of the building would preserve openness and not conflict with the purposes of including land in the Green Belt is subject to consideration of the degree of extension and other works required to facilitate the change of use.
11. Paragraph 154c) provides for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Framework does not define what extent of addition might be regarded as disproportionate. However, as the Framework refers to 'size', aspects such as volume, footprint, floorspace and external dimensions are relevant considerations.
12. In terms of volume increase, the main parties refer me to the guidance in the Council's Alterations and Extensions to Residential Properties Supplementary Planning Document [2008] (the ESPD). It suggests that extensions to dwellings in the Green Belt and/or countryside should not normally exceed a third (30%) of the volume of the original dwelling. While the guidance pre-dates the first version of the

¹ Para. 154 h) v is not applicable to residential development – see *RB of Kingston upon Thames v SSLUHC* [2023] EWHC 2055 (Admin).

Framework and relates to existing dwellings rather than buildings to be converted, in my view, it provides a reasonable starting point as to what volume of addition might be considered as not disproportionate in Green Belt areas.

13. Annex 2 of the Framework defines the 'original building' as it existed on 1 July 1948, or if constructed after 1 July 1948, as it was built originally. The volume of the *original* structure would have been greater than the building in its existing condition. An historical photograph of the tower provided by the appellant, albeit of limited quality, shows a distant view including the angle between two elevations of the building. Even when accounting for the orientation of the elevation, the vertical height appears greater than the building's width. The plan showing the undeveloped building (ref. WT-27-05-23-8) is therefore probably an underestimate of the original building.
14. Against the undeveloped building shown on the plan, the Council estimates that the proposed increase in volume would be about 35.7%. Having regard to the likely greater size of the original building, even when accounting for the additional volume of the proposed roof, it is doubtful, in my view, that the extensions would significantly exceed the ESPD guideline, if at all.
15. The size of the extension would provide about a third of the floorspace of the two floors proposed within the original part of the structure. The addition of an external balustrade to the edge of the roof would give the perception of a larger extension, however, as a lightweight structure of limited volume it would not significantly affect the measure of proportionality to the original building. Insofar as the extension and alterations to the building are concerned, I find the scheme would fall within the provisions of Paragraph 154 c) of the Framework.
16. In facilitating the re-use of the building, groundworks and the regrading of land about the building and to the point of access from the adjacent bridleway would be required. Unlike most rural buildings the tower has little existing supporting infrastructure. The proposed use would involve the creation of extensive new hard surfaces, several lengths of gabion retaining walls and a flight of steps.
17. As engineering operations, those works are subject to the Paragraph 154 h) tests of preserving the openness of the Green Belt and not conflicting with the purposes of including land within it.
18. The introduction of terracing by means of retaining walls and the formation and use of the surfaced driveway, paths and parking area would have an urbanising effect through the introduction of works on parts of the site where there is little evidence of earlier development. The physical presence of the hard landscape works - with a high degree of intended permanence, would cause a moderate loss of spatial openness. In addition, the structures and surfaces on the rising ground and their use for parking vehicles or for bin storage, for example, would be prominent from the adjacent bridleway. Together they would also cause a moderate impact on the visual openness of the locality.
19. The development would thereby fail to preserve openness and would conflict with the Green Belt purpose of safeguarding the countryside from encroachment. Those elements of the proposal are contrary to the requirements of Paragraph 154 h).
20. The appellant also directs me to the provisions at 154g) relating to the partial or complete redevelopment of previously developed land (including material change of

use to residential or mixed use including residential), whether redundant or in continuing use, which would not cause substantial harm to the openness of the Green Belt.

21. The Framework defines previously developed land (PDL) as 'Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land'. It goes on to state that, amongst other things, PDL excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.
22. The structure has a degree of prominence from the bridleway and features in glimpsed views from surrounding areas. It is largely free from vegetation cover and of sufficient scale and integrity such that it could not, in my opinion, be considered to have blended into the landscape.
23. However, the former water tower is a stand-alone building with little evidence of any supporting fixed surface infrastructure. Aside from an immediate strip of levelled land (where a scaffold had been erected at the time of my site visit), if any land has any ongoing intimate association with the building, this is neither apparent from the evidence nor on the ground. If any such curtilage existed to serve the purpose of the building, it seems to me that this has long since disappeared.
24. The extent of the PDL cannot therefore be said to include the land much beyond the footprint of the building. Although I have found the degree of extension acceptable, the major part of the proposed engineering operations lie outside the scope of exemption within Paragraph 154g). The previously identified harm to openness and the conflict with the Green Belt purpose of safeguarding the countryside from encroachment are not therefore exempted by it.
25. Turning to Paragraph 155, 'grey belt' is defined in Annex 2 of the Framework. It includes 'previously developed land and/or any other land that, in either case, does not strongly contribute to any of the purposes (a), (b) or (d) in Paragraph 143.' In addition to the land identified as PDL above, Paragraph 155 includes 'any other land'. It therefore potentially includes the remainder of the appeal site.
26. The site is distant from any large built-up area. It could not therefore contribute to the unrestricted sprawl of such an area. Nor would it result in neighbouring towns merging. The site does lie close to the village envelope which, in the vicinity of the site, has some coincidence with the Irwell Vale Conservation Area. However, there is no dispute between the main parties that the proposal would not have an adverse effect on the setting of the Conservation Area.
27. Pursuant to my duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, having considered the proposal and visited the site, I concur with that view. This is because of the intervening distance and limited degree of intervisibility between the proposed development and the designated area. Accordingly, it is my view also that the development proposed would preserve the setting and special character of the historic area.
28. On the preceding conclusions, I find the site does not strongly contribute to any of the purposes (a), (b) or (d) in Paragraph 143 of the Framework. Furthermore, the Council have indicated that it no longer benefits from a 5-year housing land supply

such that, having regard to footnote 56 of the Framework, the demonstrable unmet need required by Paragraph 155.b. exists.

29. Paragraph 155.c. requires the development to be in a sustainable location with particular reference to paragraphs 110 and 115 of the Framework. The adjacent village has limited services. Residents of the development would thereby need to travel to access goods and services for day-to-day living needs and education or employment opportunities. Paragraph 110 seeks to manage patterns of growth by limiting the need to travel or offering a choice of transport modes. It acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
30. The appellant highlights that residents could travel by sustainable modes to Ewood Bridge for facilities and services there, including a bus service to larger settlements. It is asserted that this would be similar to the situation of a recently approved development of up to 30 houses close to the appeal site. Notwithstanding that the appeal site is somewhat more distant from those services, unlike development elsewhere in the vicinity, the proposed site access arrangements would likely significantly limit transport choice for many.
31. Amongst other things, Paragraph 115 seeks to ensure that safe and suitable access to the site can be achieved for all users. In the substantial absence of detail of any proposed works to the bridleway, the unlit, uneven surface and steep inclination of the lane would practically limit access. It would probably deter walking and cycling except for the most able bodied.
32. The site layout is designed primarily for vehicular access, which would encourage the use of private motor vehicles. Those with restricted mobility would have difficulty accessing the site and would need to negotiate a stepped approach to the dwelling. Those limiting effects on travel choice would be somewhat greater during periods of darkness or during adverse weather. Moreover, the Council's highway advisors indicate that access by fire tender or refuse vehicles could not be achieved based on the evidence provided.
33. Even when taking account of its rural location, the development would necessitate regular travel by substantially non-sustainable means with little demonstrated capacity to limit travel or offering a genuine choice of transport modes. Furthermore, the scheme would not ensure safe and suitable access for all users. It would conflict with the requirement at Paragraph 155.c. and therefore conflict with Paragraph 155 as a whole.
34. For the reasons above, I find the development does not fall within any of the Framework's exceptions to inappropriate development in the Green Belt. It would constitute inappropriate development in the Green Belt. Furthermore, elements of the proposal would not preserve the openness of the Green Belt and would conflict with the purpose of safeguarding the countryside from encroachment. By definition, inappropriate development is harmful to the Green Belt and that harm carries substantial weight against the appeal.

Highways

35. As described above, the proposed vehicular and pedestrian access to the development would be from the adjacent bridleway. According to the appellant, the section extending from an unadopted lane serving residential properties on Milne

Street is within his ownership. Although this and any right of access is contested by others, there is little substantive evidence before me to the contrary.

36. The bridleway is a track of limited width and substantially surfaced in unbound stone, gravel and deposited bricks. Aside from repair and maintenance, no further works are proposed to the bridleway.
37. Representations of users of the public right of way and local residents describe the bridleway as being regularly used by walkers, cyclists and equines. I have little doubt that the introduction of vehicular traffic on the length of the route from Milne Street would elevate the risk of conflict between users. However, the point of access provides reasonable visibility in both directions along the bridleway. It lies where a gate is set back and the path widens. A further field gate to the south-east also provides a wider section where users could safely pass or find temporary refuge on the lower section. Beyond that, intervisibility between users along a straight section leading onto Milne Street is good. This would allow users to suitably manoeuvre to avoid risk of conflicts between them.
38. Having regard to the scale of the proposed accommodation, the normal domestic use of the access would be unlikely to generate a significant amount of vehicular traffic sufficient to cause a material impact on users of the bridleway, along Milne Street, or beyond. It would not therefore result in a severe impact on highway safety.
39. However, even if well maintained, the condition and inclination of the access lane would not provide a suitable or safe means of access to the highway network. As above, the shortcomings would potentially be significantly exacerbated during or following periods of adverse weather. Regular access would likely require use of all-wheel drive or other specialist motor vehicle. It would not provide for the needs of people with reduced mobility, nor facilitate access by service and emergency vehicles.
40. The Council's highway advisors highlighted that the route coinciding with the bridleway would need to be widened to 3.7m and be surfaced in a bound material. However, there is little before me to demonstrate that this could be achieved to deliver a satisfactory standard of access without harm to accessibility for all users of the bridleway. Furthermore, as photographic evidence from 2013 suggests, the bridleway does not appear to have previously had a bound surface. The necessary works and widening to upgrade the bridleway would therefore likely be beyond the scope of the appellant's repair and maintenance.
41. For those reasons, I find the development would conflict with Policy HS12 of the RLP and the Framework as they require new development to provide safe and suitable access for all users.

Character and appearance

42. The site is located close to the edge of the Irwell Vale settlement where the character changes from the tight grain of nestled rural village housing to a rising open rural landscape of woodland and fields served by more informal tracks and paths.
43. The building is set on an elevated mound alongside the public right of way. It is detached from the settlement area and bordered by grassland and wooded areas.

The former water tower is of rudimentary and utilitarian design. It has a roughly square footprint with smooth Accrington brick walls, with only a single door opening. The internal area is open to the elements.

44. The design of the proposed conversion limits the number of new openings, particularly on the most prominent elevations. However, the introduction of various scaled windows of contemporary proportions, the low hipped roof form, and the modern extension would significantly change the appearance of the building.
45. The proposed external retaining walls would be faced to reflect stone walls characteristic of the locality, however, the swathe of the driveway and parking areas in conjunction with a relatively large garden area close to the recreational route would inevitably lead to some urbanising effects.
46. Those effects would be somewhat mitigated by the loose link to the nearby settlement and the benefit of partial seasonal screening in the form of trees. The development could be further assimilated by boundary, or other, landscaping within the site. However, due to the rising nature of the land, the proposed extent of the garden, the prominent location of the building, the associated engineering works and attendant vehicle parking, it would be difficult to mitigate those effects entirely.
47. In support of the proposal, the appellant claims that the conversion would prevent further deterioration of the structure and preserve a building of some historic significance. Although the Council has not seen fit to categorise the structure as a designated or non-designated heritage asset, there is no dispute that the building has some historical association with a former mill which was instrumental in the development of the nearby settlement and the subsequent designation of the Irwell Vale Conservation Area. The building also has an historic link to a converted engine house nearby.
48. However, the necessity to incorporate unsympathetic new openings and an extension masking the original doorway to achieve suitable standards of living accommodation would significantly change the simple utilitarian character of the building. Alongside the proposed incongruous roof and changes to the surrounding land, any benefit of the building's retention in heritage terms would largely be undone by the works. Accordingly, this is a matter of limited weight in the appeal.
49. Even when accounting for an inevitable degree of domestication in the re-use of rural buildings and some potential for assimilation, I find that overall there would be a minor conflict with Policies ENV1 and ENV3 of the RLP and the Framework as they seek high quality design that accounts for the character and appearance of the local area that protects and enhances the character of the landscape.

Living Conditions

50. Residential use of the flat roof of the extension and proposed lawned area would be partially visible to users of the adjacent public bridleway. However, due to local variations in levels and some screening benefits arising from the existing building and the proposed balustrade, the effect on prospective residents' privacy would be limited. Furthermore, views could be further restricted by appropriate boundary landscaping which would offer additional screening during months when those areas of the development are likely to be most intensively used. This could be conditioned in accordance with Paragraphs 56 and 57 of the Framework.

51. I note concerns that the development could afford views over a nearby residential property. However, the proposed dwelling would be detached from the group of the nearest neighbouring properties. It lies at some distance and benefits from intervening vegetation such that direct views over distance would be filtered. In my view, the extent of overlooking would not cause a material impact on the living conditions of existing residents.
52. There is little evidence that the volume of traffic associated with the use of a single dwelling would cause harm to the living conditions of other residents on the road leading to the proposed access point.
53. For the above reasons, I find that the development would provide a suitable standard of accommodation for prospective occupiers and maintain high levels of amenity for nearby residents. It would thereby accord with Policies ENV1 and ENV6 of the RLP as together they seek that development should not be adversely affected by neighbouring land uses and provide an acceptable standard of amenity for occupiers of the development.

Other Considerations

54. The appellant highlights that without a use, the building will further decline and be a visual and historical loss to the Conservation Area. As I have identified that the proposed scheme would, itself, largely remove any remnants of historic significance, I find that a matter of limited weight in the case circumstances. The recycling of an existing building, however, would reduce demand for new materials with an attendant carbon saving. This is a benefit in favour of the development.
55. The appellant highlights past difficulties in housing delivery in the Borough. Due to the nature of the local topography larger housing sites are restricted and the development of small scale sites such as this are therefore important in meeting housing requirements. In that respect, the appellant refers me to the case of the conversion of a rural building at Gib Hill, adjacent to an existing settlement, which garnered support from Council officers. While that development was not within the Green Belt, the proposal here would nevertheless contribute to local housing supply. It would provide a home for a local family. These are benefits in favour of the development.
56. I note the allegation that a survey of the building for bats was not carried out by a qualified person and that the report is limited in its context. However, as an open structure with few sheltered crevices, I agree with the Council's ecological advisor that the survey effort for protected and other species is sufficient in the case circumstances. Moreover, there is little substantive evidence provided to support claims of use of the building by bats or other wildlife.
57. Any effects from the construction period would be short-term and could be mitigated by careful construction management, which could be conditioned. Concerns that some works in association with the development have taken place are noted. However, as there is provision within the 1990 Act to retrospectively regularise development works, this is a matter of negligible weight.

Very Special Circumstances

58. The proposed development is inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the

Green Belt and that substantial weight should be given to that and any other harm to it. The development would also cause harm to the openness of the Green Belt, which is one of its essential characteristics, and conflict with a reason for including land within it. Additionally, it would not provide adequate safe access for users of the proposed development and would result in a minor impact on the character and appearance of the locality.

59. Despite my finding in favour of the appellant on the issue of living conditions, even when accounting for additional landscaping, which could reduce some visual effects of the development on openness, I find the considerations presented by the appellant, including its contribution to housing need and preserving the existing structure, whether taken singularly or together, do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission do not exist and the development is contrary to policies of the Rossendale Local Plan and the Framework when read as a whole.

Other Matters

60. The Council advises that it currently has a housing land supply of only 4.9 years such that policies for the delivery of housing might be considered out-of-date. Paragraph 11d) of the Framework, in conjunction with footnote 7, states that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. In the case circumstances, I find the totality of the Green Belt harm provides the strong reason for refusing the development proposed.

Conclusion

61. For the reasons given above the appeal should be dismissed.

R Hitchcock

INSPECTOR