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COMMENTS ON PLANNING APPLICATION

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Proposed erection of 'Passivhaus' along with hard and soft landscaping and vehicular access of Lomas Lane

Rossendale BC ref 2015/0025

Land off Lomas Lane, Rawtenstall, BB4 6HY

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Comments on behalf of

David and Julia Ashworth

7 Balladen, Rossendale, Lancashire, BB4 6HY

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1. Jim Metcalf BSc DipTP MRTPI is a Planning Consultant with private and institutional clients. He specialises in development control and appeal cases and has held senior positions with local planning authorities in Suffolk, Lancashire, Manchester, Bury and Calderdale.

## **Background**

2. David and Julia Ashworth live at 7 Balladen, Rossendale. David has lived there for 29 years. The rear of their house faces the site where the proposed house would be built. It would dominate the outlook from, and overlook their house and garden from an elevated position.
3. They are concerned that the proposed house would be completely out of keeping with the attractive and secluded environment in Balladen and would be seen as a very large, uncompromising and incongruous intrusion. It would be a prominent feature in their outlook and significantly detract from the enjoyment of their home
4. Balladen is a small hamlet on the southern edge of Rawtenstall. Lomas Lane was originally the main road south from Rawtenstall towards Manchester and served the hamlet when it was mainly agricultural, and subsequently industrial with the building of a small mill, powered by Balladen Brook. Now exclusively residential, the hamlet is formed by a loose collection of houses, including terraced and detached property and converted barns, all built in the local vernacular with stone and slate the predominant materials. Built in a local fold in the landscape the hamlet sits snugly into its surroundings and is typical of similar small Pennine settlements.

## **Planning History**

5. A planning application for the erection of a Passivhaus along with hard and soft landscaping, with vehicular access off Lomas Lane was refused by Rossendale BC in February 2014 (*RBC Ref 2013/0587*).
6. The reason for refusal was:-

*'The application relates to a greenfield site within the loose collection of buildings making up the hamlet of Balladen in the Countryside south of the urban boundary of Rawtenstall. By reason of the National Planning Policy Framework 2012 and the Development Plan policies there is a presumption against permitting the erection of a dwelling in the countryside except in very limited circumstances. It is claimed that the special circumstances exist to permit the proposed dwelling due to 'the exceptional quality or innovative nature of the design of the dwelling' as referred to in paragraph 55 of NPPF. It is acknowledged that the proposed dwelling is of a design of a high quality and to minimise energy consumption/CO2 emissions, but it is not of such exceptional quality or innovative design to meet the test of paragraph 55 of the NPPF. More particularly the proposed development would not*

*enhance its immediate setting and is not sensitive to the defining characteristics of the local area, the dwelling to be of significant scale and to occupy an elevated position and be of contemporary 'urban' design and facing materials at odds with the existing properties of which the hamlet of Balladen is composed. Furthermore it is not considered the suite of sustainability measures are sufficient to offset the harms caused by the development on Greenfield land outside the urban boundary. Accordingly the proposal is contrary to Sections 3, 4, 6 and 7 of the National Planning Policy Framework 2012 and policies 1, 2, 3, 9, 21, 23, and 24 of the Council's adopted Core Strategy DPD 2011'.*

7. This decision was subject of appeal (APP/B2355/A/14/2216578). The Inspector found that despite inherent quality the scheme would not significantly enhance its immediate setting and would fail to be sensitive to the defining characteristics of the local area, and would look harmfully out of place.
8. For these reasons the Inspector found that the scheme would conflict with relevant national and local policies. The appeal was dismissed.
9. The current proposal involves relatively minor modifications to the scheme in an attempt to overcome the conflict with well established policies that in 2014 justified the refusal of planning permission and subsequent dismissal of the appeal.

### **Proposal**

10. The new large house would be built in a steeply sloping field of about 0.21 hectare adjoining Lomas Lane on the approach to Balladen. The two storey property would be designed in a contemporary style. There would be a master bedroom, with en-suite and two dressing rooms, two bedrooms each with an en-suite, a guest bedroom, a home office, a cloakroom, a shower room, a bathroom, a utility room, a store, a plant room and a large garage/workshop on the lower level. On the upper level there would be a kitchen/dining/ living area with a study and a pantry.
11. The site for the new house includes only a relatively small part of the land owned by the applicant in Balladen. It is proposed that the remainder of the land, including the existing house, would remain outside the grounds of the new property. Some of the work proposed as mitigation for the scheme seems to be in this land outside the application site.

### **Planning Policy**

12. Planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Rossendale Local Plan Part 1: Core Strategy (CS) was adopted in 2011 and sets out a development strategy for up to 2026, identifying how much and where development will take place. It is the key document in considering planning applications.

13. A Key Issue of the CS is the need to ensure that the character and quality of the Rossendale landscape is preserved and enhanced.
14. To achieve this CS Policy 1: General Development Locations and Principles makes it clear that new development within Rossendale should take place within the defined 'Urban Boundary' (defined in Local Plan Saved Policy DS1) unless it has to be located within the countryside.
15. The site is outside the defined 'Urban Boundary'. The adopted and up-to-date local planning policies clearly indicate that any 'normal' proposal for a new house on the site would not be allowed.
16. There is no suggestion that the house proposed must be located in the countryside, outside the urban boundary. Nor is there evidence that other sites, compliant with CS Policy 1, have been considered as the location of the new house. The site proposed is chosen because it is in the ownership of the appellants, who currently live in an adjoining property in Balladen.
17. The Local Plan Part 2: Site Allocations and Development Management DPD is currently being prepared. Consultations have been carried out about changes to the defined 'Urban Area' and 'Green Belt'. None of these proposals affect the status or designation of the application site.
18. In line with this policy approach Rossendale BC refused planning permission, in 2013, to convert and alter stables to form a dwelling at New Barn Lane, Rawtenstall, close to the application site at Lomas Lane, Balladen. The reason for refusal was based on the buildings location in 'countryside' and the consequent conflict with the adopted Core Strategy. Decision Letter (ref 2013/0246).
19. The National Planning Policy Framework (NPPF), published in 2012, is also a material consideration in determining applications.
20. NPPF Paragraph 55 states that :-

To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or

- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling.

Such a design should: –

- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- reflect the highest standards in architecture;
- significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area.

*Does 'paragraph 55' apply – is the site 'isolated' ?*

21. The key part of this paragraph, relevant to the scheme at Balladen, is the statement that:-

'Local planning authorities should avoid new **isolated** homes in the countryside unless there are special circumstances such as ...'.

The paragraph goes on to set down criteria against which proposals for 'isolated' homes' should be judged.

22. The notion that houses of exceptional quality or innovation might be permitted where otherwise development would not be allowed was established with previous policies in PPG2 and PPS7. Paragraph 11 of PPS7 explained that '**very occasionally** the exceptional quality and innovative nature of the design of a proposed, isolated new house may provide special justification for granting planning permission'. The approach has been characterised as the 'Country House' clause seeking to allow a limited number of such grand isolated houses that, built over many years, contribute to the character of the English countryside.

23. The dictionary definition of 'isolated' is 'far away from other places, buildings or people, remote'. The proposed site of the new house is clearly not isolated. Quite the opposite. The site is in a small hamlet amongst a group of other houses. And the hamlet itself is close to the built-up area of Rawtenstall.

24. The site of the new house is not 'isolated' and not therefore suitable, in principle, for the location of a 'NPPF paragraph 55 development'. As such normal planning policies should apply and permission refused.

25. If this principled approach is not accepted by Rossendale BC then my clients request that full consideration is given to the following assessment of the scheme in the context of the paragraph 55 criteria.

26. Of four possible circumstances, set down in NPPF paragraph 55, that might justify development in an **isolated** location in the countryside the first three, concerned with agricultural workers, saving a heritage asset or re-using an existing building do not apply. The applicant's case for granting planning permission is based entirely on the submission that the design of the new house would be of exceptional quality or innovative nature.

*Would the house have a design of exceptional quality or innovative nature?*

27. This is a very high threshold and NPPF sets down four criteria that must all be satisfied if the 'exceptional quality or innovative nature' of the design is to be accepted.

- *It must be truly outstanding or innovative*
- *It must reflect the highest quality in architecture*

28. The design of the house proposed previously was considered by a Design Review Panel of 'Places Matter!', the architecture and built environment centre for the North West. The Panel provides constructive advice to design teams on an advisory basis and has no formal role in the planning system. The Panel is a group of architects and allied professionals with no lay representatives.

29. The current scheme has not been subject of consideration by the Design Review Panel. The Panel previously stated that their advice was to 'keep it (the new house) strongly shaped as a contrast to the more natural surrounding'. In contrast the submitted Design Summary now states that the revised design seeks to make the building appear to grow from the landscape. This change in emphasis raises the possibility that the Design Review Panel would now see the revised scheme in a less complimentary manner.

30. The Inspector who dealt with the appeal noted that the Panel had found the scheme to be '*of great quality and innovation which has the potential to inform a much wider audience around design in a rural setting*' and that it reflected the '*highest standards of architecture*'. He concluded that the development could be considered as '*truly outstanding and of exceptional quality*'.

31. Whether any design meets the highest standards of architecture is a subjective judgement. In this case it can readily be argued, despite the previous Inspector's conclusion, that the new house would be clearly seen as a building imposed on the landscape rather than one designed to respect and reflect the local geography and heritage. This would be evident from the uncompromising way in which the house would sit in a highly visible position above Lomas Lane on the approach to the hamlet, openly seeking the best views out of the site, and with the landscape modelled to accommodate the large and geometric shape of the building.

32. Although the residents at No 7 Balladen respect the views of the Design Review Panel, and the conclusion of the Inspector, based on the Panel's advice, they find it difficult to understand how they reached their conclusion. In their opinion the architecture cannot be of the highest standard as required when the building would appear as a large incongruous feature sitting above the gateway to Balladen with an uncompromising relationship with the immediate surroundings. The advice of the Design Review Panel was to 'keep it strongly shaped as a contrast to the more natural surrounding' and this contrasts with their conclusion that the house would 'leave a delicate mark on the landscape'. This would be far from the outcome.

- *It must significantly enhance its immediate setting and*
- *It must be sensitive to the defining characteristics of the local area*

33. The South Pennines is a highly valued landscape area that provides an important recreation resource for the local population. Rossendale is recognised for the important moorland related habitats and its historic and cultural heritage as home of the Industrial Revolution.

34. Balladen sits in a sensitive location in the moorland fringe where the higher land runs down into a narrow valley to the wider floor of the Irwell Valley below. Such valleys are characterised by their intimate and attractive environment with small groups of vernacular style buildings in a wooded background.

35. The site is a steeply sloping field that is a prominent gateway to Balladen along Lomas Lane. The open rising field contributes positively to the local environment enclosing the hamlet behind the fold it forms in the landscape. The development would radically change the appearance and function of the site. An access would be taken from the lane. The new house would be visible at a higher level in a dominant position, and in complete conflict with the current role of the site, being open land that forms a setting for the modest hamlet.

36. The Inspector found that the original proposal would not significantly enhance its immediate setting, and would be harmfully out of place, rather than sensitive to the defining characteristics of the local area, defined by the generally attractive, semi-rural surroundings and traditional stone buildings.

37. The house now proposed would sit lower in the site with excavated material used to screen it to a degree. The first floor section has been reduced in length by about 1.6m and the pitch of the roof reduced from 20° to 15°. Other minor design changes have also been made. A fuller landscape scheme has been prepared.

38. However the house would still be a large and alien building, especially when compared with others nearby, sat at a level significantly above Lomas Lane. It would be readily seen from the lane, especially from the area of the drive entrance, and from other houses in the hamlet. It would remain, due to its position, size and form, entirely

uncharacteristic of Balladen and surrounds. In considering his decision the Inspector said that, in contrast to other houses in Balladen that are generally screened from view or occupy less prominent positions in the landscape, the new house would introduce a substantial sized property into an elevated and prominent section of the open countryside and would look harmfully out of place. The same applies equally to the revised proposal.

39. The appellants have suggested a number of actions designed to 'significantly enhance' the setting of the new house, and the surrounding area. These include siting 'sculptures' and forming a pond in the grounds, and planting an orchard and native deciduous trees.
40. These items were included in the previous scheme. In considering them the Inspector said that 'no specific details of the sculptures have been provided, and the pond would be largely screened from public view'. As a result the Inspector was 'not convinced that the planting of native apple and pear trees would be sufficient to **'significantly'** improve the immediate setting of the site'. He also commented that 'even though new planting is proposed this would take a significant period of time to establish and is also unlikely to completely screen the upper section of the house which would also be clearly visible from around the proposed site entrance'.
41. Other work now proposed includes rebuilding stone walls, planting hedgerows and clearing a former millpond of Himalayan Balsam. The existing less than satisfactory state of the walls, hedges and pond on the site are however matters entirely within the control of the applicants who have failed to maintain these landscape features, such that they now need improvement. To propose such work, in effect maintenance that has been hitherto lacking, cannot reasonably be regarded as something that would 'significantly enhance' the immediate setting of the proposed house.

### *Summary*

42. The development does not qualify for consideration as a paragraph 55 'exception' because its position is not 'isolated' but within a small settlement.
43. The revised design has not been independently appraised as having the exceptional quality or innovative nature that could constitute 'special circumstances' that might override the normal restriction on new development in the location involved.
44. The Inspector found that the original scheme would look harmfully out of place and be at odds with its surroundings. Consequently he found the house would not significantly enhance its immediate setting or be sensitive to the defining characteristics of the local area.
45. For a development described by an independent arbiter, the Inspector, as 'harmful' to Balladen to become a scheme that would 'significantly

enhance its immediate setting', to comply with NPPF para 55, clearly needs very substantial amendment. Instead the revised application involves relatively minor changes to the house, and basic maintenance of currently neglected features around the site. These changes are clearly insufficient to change the scheme from one found to be harmful into one that involves significant enhancement of the area or one that is sensitive to the defining characteristics of the area.

46. For these reasons the proposal does not satisfy the criteria necessary to be regarded as an exception to normal policies and for the above reasons planning permission should be refused.