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# Appeal Decision

Site visit made on 16 June 2014

by **Matthew Birkinshaw BA(Hons) Msc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 July 2014

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**Appeal Ref: APP/B2355/A/14/2216578**

**Land off Lomas Lane, Rawtenstall, Rossendale, BB4 6HY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Howard against the decision of Rossendale Borough Council.
  - The application Ref 2013/0587, dated 23 December 2013, was refused by notice dated 26 February 2014.
  - The development proposed is the erection of a single 'Passivhaus' dwelling along with hard and soft landscaping and vehicular access off Lomas Lane.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is whether or not the proposal accords with local and national planning policy which seeks to restrict new residential development in the countryside.

## Reasons

3. The appeal site consists of an open field/meadow situated on the eastern side of Lomas Lane within the small hamlet of Balladen. Evidence provided by the appellant indicates that Balladen is characterised by terraced, former industrial worker's cottages and a farm complex which has been converted into dwellings.
4. Although close to the boundary, the site is located outside the defined urban area. *Rossendale Core Strategy* Policy 1 states that proposals outside the urban boundary will be determined in accordance with national and local planning guidance. The National Planning Policy Framework ('the Framework') is therefore relevant, and both parties have referred primarily to paragraph 55.
5. Paragraph 55 of the Framework states that new isolated homes in the countryside should be avoided unless there are special circumstances. One of those circumstances includes the exceptional quality or innovative nature of the design of a dwelling. In order to meet this test 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. I have therefore considered the scheme against these criteria.

*Is the design truly outstanding or innovative and represent the highest standards in architecture?*

6. The appeal scheme proposes a contemporary, four bedroom detached 'Passivhaus'. The lower section of the house would be set into the site, which rises up from Lomas Lane to the east, and would use materials intended to reflect the dry-stone walls throughout Balladen. Perched above would be a timber-clad, cantilevered living space with a mono-pitch roof inspired by an agricultural barn. Upon completion of the scheme it is the appellants' intention to sell their current property and work from home.
7. Establishing whether or not the proposal is of a truly outstanding or innovative design is invariably a subjective matter. However, the appeal scheme has evolved through the pre-application process following assessment by the independent 'Places Matter!' design review panel. This reflects advice contained within the Framework and the National Planning Practice Guidance, which states that local planning authorities should have design review arrangements in place to provide assessment and support to ensure high standards of design.
8. In this case the review panel came to the conclusion that the proposal would be a *"scheme of great quality and innovation which has the potential to inform a much wider audience around design in a rural setting"*. Furthermore, it was found that the design reflected the *"highest standards of architecture"* by reason of its clever arrangement of massing and form, landscape treatments and use of materials.
9. Although this would be the first 'Passivhaus' in Rossendale, no persuasive evidence has been provided to demonstrate that the approach to ensuring air tightness and improving building fabric is necessarily an innovative one. Similarly, there is nothing to suggest that 'Lifetime Homes' standards, using permeable surfaces or incorporating rainwater harvesting, on-site sewage treatment or solar panels represent particularly ground-breaking technology.
10. Nonetheless, the design review panel concluded that the use of massing, form, materials and landscape treatment would represent the highest standards of architecture. By setting the stone-built, lower ground level into the side of the sloping site and adding a timber-clad, cantilevered living space above I agree that the design would be of the highest calibre. The scheme would clearly raise the standards of design in the area and can be considered as truly outstanding and of exceptional quality.

*Would the design significantly enhance its immediate setting?*

11. However, despite its inherent quality, the Framework also requires designs to 'significantly' enhance their immediate setting. In this case, the immediate setting consists of the appeal site, which is currently a field/meadow, and the cluster of houses around Lomas Lane. Although it is suggested that the smaller terraced properties to the north-west lie within a more urban setting, the evidence provided indicates that they form part of the history of Balladen, which has a distinctly rural feel removed from suburban development to the north. As a result, they are also part of the immediate setting, as are the properties to the south-east.

12. In response to the Council's concerns the appellants refer back to the design review panel, who concluded that the scheme would be "*a significant enhancement to its local setting bringing a standard of architecture, landscape architecture and sustainability that is sadly missing in much of the rural environment*". However, no evidence has been provided to substantiate this conclusion, or to demonstrate how or why such an enhancement would occur. Whilst the level of quality proposed may be missing from much of the rural environment, with the exception of some older timber garages to the south the immediate setting around the appeal site is defined by its generally attractive, semi-rural surroundings and traditional stone buildings. Based on the evidence provided, I am therefore not convinced that the scheme's architectural quality would be sufficient to significantly enhance its immediate setting.
13. I am also mindful that the design review panel's initial response stated that "*we understand that this site is within the Rossendale SHLAA and has been designated for 40 dwellings even though it is in a countryside location*". However, as identified by the Council, the Strategic Housing Land Availability Assessment (SHLAA) is intended to review the potential of land for future housing, and does not change the designation of the appeal site which remains within the open countryside. The SHLAA also defines the wider area as previously developed land, which, for the purpose of the appeal site is incorrect and somewhat misleading.
14. I have also considered that the scheme would include a pond to collect rainwater and aid the transition between the patio and the rural landscape. The appellants also propose that the garden would become an extension of the meadow with sculptures, would plant native deciduous trees and create a traditional orchard. However, no specific details of any sculptures have been provided, and the pond would be largely screened from public view. As a result, I am not convinced that the planting of native apple and pear trees would be sufficient to 'significantly' improve the immediate setting of the site.
15. The appellants have also referred to a new 'eco farmhouse' allowed on appeal under paragraph 55 of the Framework (Ref APP/D3505/A/12/2173098, dated 14 September 2012). In this case the Inspector also found that there was nothing unattractive or damaging to the landscape. However, the scheme would reinstate original field patterns and present passers-by with a more diverse agricultural landscape. Consequently, the circumstances facing the other Inspector were materially different.

*Would the design be sensitive to the defining characteristics of the local area?*

16. By incorporating stone on the lower ground floor level and setting it into the side of the site this aspect of the scheme would be sympathetic and sensitive to its surroundings. The use of timber on the first floor living space would also blend successfully into its predominantly natural surroundings and reflect neighbouring agricultural buildings. Moreover, although the mono-pitch roof would be contemporary, it would add visual interest to the scheme. In terms of the choice of materials and design approach taken, I therefore consider that in principle the scheme would largely reflect the local area.
17. However, the terraced properties to the north-west and south-east of the appeal site are relatively modest owing to their likely original use as mill workers cottages. Although there are also large detached houses in Balladen, the majority are either generally screened from view from Lomas Lane or

occupy less prominent positions in the landscape. In contrast, the appeal scheme would introduce a substantial sized property into an elevated and highly prominent section of the open countryside. Situated immediately adjacent to Lomas Lane it would also be clearly visible within the public domain. Within such a prominent position I consider that the size, scale and massing of the proposal would fail to be sensitive to the defining characteristics of the local area, and would look harmfully out of place.

18. In reaching this view I appreciate that the topography of the site has been a key consideration in the design, and that the lower ground floor with its grass roof would only be roughly 1.5m higher than the existing site level. However, the timber-clad, cantilevered living space above would be a clearly noticeable feature in the landscape by reason of its location, size and siting on higher ground. It would also be seen in the context of surrounding houses which are noticeably smaller and at a lower level.
19. As a result, when viewed from along Lomas Lane to the north and south of the site, I consider that the size and scale of the proposal would be at odds with its surroundings and would leave more than "*a delicate mark on the landscape*". Similarly, even though new planting is proposed, this would take a significant period of time to establish. It is also unlikely to completely screen the upper sections of the house which would also be clearly visible from around the proposed site entrance.
20. In considering the scale and visual impact of the scheme I have taken into account comments that the appellants could apply for planning permission for an agricultural building which would be acceptable in the countryside and could be significant in size and scale. Examples of schemes permitted by the Council on farms in the area have also been provided. However, the proposal before me is for a new detached dwelling, which is a materially different form of development to an agricultural building intended to serve a functional purpose. Moreover, I have not been provided with any information relating to the context of the other farms. Likewise, no details of potential affordable housing schemes or their viability are before me. As a consequence, I have not given these comments any significant weight in reaching my decision.

#### *Conclusion on Main Issue*

21. In summary, I conclude that the proposal would reflect the highest standards in architecture and help to raise standards of design more generally. With this in mind the Framework gives great weight to outstanding or innovative designs which help raise standards. However, based on the information provided the proposal would not significantly enhance its immediate setting, and by reason of its size, scale and prominence would not be sensitive to the defining characteristics of the local area. For these reasons it conflicts with paragraph 55, and subsequently also Core Strategy Policy 1 which seek to restrict new residential development in the countryside. Given that Core Strategy Policy 1 reflects national planning policy and guidance it is broadly consistent with the Framework's aims and objectives concerning new residential development in the countryside.

### *Other Matters*

22. In reaching my conclusion against the main issue I have taken into account that the Framework advises against refusing planning permission for buildings which promote high levels of sustainability because of concerns about incompatibility with an existing townscape. However, this includes the caveat that such concerns are mitigated by good design. In this case, I consider that by virtue of its size, scale and prominence the building would not be sensitive to its surroundings and would look harmfully out of place. Although the design elements of the scheme would represent high quality, this would not mitigate the incompatibility of the scheme in its surroundings.
23. Moreover, whilst the appellants' evidence indicates that Bury Road is less than 1km away, the range of services and facilities in Rawtenstall are referred to as 'within 2km'. Despite representations suggesting that elderly family members often walk or cycle to the local pub and shops, by reason of this distance, combined with the lack of footpath along most of Lomas Lane, I am not convinced that potential future occupiers would regularly walk to access local services. Instead, it is highly likely that they would be heavily reliant upon use of a private car in order to satisfy the majority of their day-to-day needs.
24. Despite its design approach, the scheme would therefore also result in unsustainable travel patterns. Although the appellants suggest that they would purchase an electric car and work from home, I find nothing to indicate how this could be adequately controlled and/or suitably enforced. In this regard the proposal would not promote high levels of sustainability, and is not the sustainable development for which there is a presumption in favour.
25. I have also considered comments that situated within a hamlet on the edge of the urban boundary with housing on two sides the site is not isolated for the purpose of the Framework. However, in refusing planning permission the Council has also referred to, amongst others, Core Strategy Policies 2 and 3. Policy 2 states that the development of un-allocated greenfield land will be permitted where it is for 100% affordable and/or supported housing, forms a minor part of a major proposal, delivers significant social, economic or environmental benefits or is for a barn conversion. Policy 3 also states that in villages and smaller settlements housing development will only be permitted where it meets identified local needs.
26. In this case the proposal is not for local needs or affordable housing, does not form part of a wider redevelopment and is not a barn conversion. Given the quality of the scheme it would have some wider public benefits by improving standards of design and architecture in the rural area. There would also be some economic benefits arising from the construction phase and occupation of an additional house in Balladen. However, as only a single dwelling is proposed, I am not convinced that the social, economic or environmental advantages of the scheme would be significant.
27. Thus, even in the event that the site is not considered isolated for the purpose of the Framework, the proposal is contrary to Core Strategy Policies 2 and 3 which also seek to restrict development on greenfield land outside settlement boundaries. Given the concerns identified in relation to the size and scale of the scheme in the context of its surroundings, the quality of architecture is not, by itself, sufficient to justify a departure from the development plan.

28. I have also taken into account that the Council has not raised any other concerns in relation to overlooking, noise, ecology, ground conditions or highways. Based on the evidence provided I see no reason to disagree. The proposal would therefore meet the requirements of other development plan policies. However, this does not justify allowing the appeal given the conflict I have identified with local and national planning policy.
29. Finally, as part of their submissions all parties have referred to numerous different appeal decisions. However, the proposal before me concerns whether or not the design, in the context of the site and its immediate surroundings, justifies granting planning permission for a new dwelling in the countryside. I have therefore determined the scheme on its specific merits and the weight which can be afforded to other proposals elsewhere is only limited.

**Conclusion**

30. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Matthew Birkinshaw*

INSPECTOR