

SUPPORTING STATEMENT

**Site Address: Land adjacent to Windy Ridge, Blackstone Edge Old Road,
Littleborough**

Document Ref No:	Prepared by:	Date:	Issued to:
3778A	Courtney Evason	June 2023	Rochdale Borough Council

Background

1. Steven Abbott Associates have been instructed by Mr Martin Muldowney to provide professional planning advice in relation to the preparation and submission of a planning application for a detached residential dwelling on land adjacent to Windy Ridge, Blackstone Edge Old Road, Littleborough.
2. The application site is located off Blackstone Edge Old Road and measures approximately 0.67 hectares. The site is within the Green Belt and slopes downwards from its south-eastern corner where it fronts Blackstone Edge Old Road. Although the application site is located within the Green Belt, the site is directly adjacent to the Defined Urban Area and there are residential dwellings fronting Blackstone Edge Old Road to the east, south and west of the site.
3. The surrounding residential properties are diverse in style with no set architectural pattern or style. There are traditional stone built cottages, large detached dwellings and highly contemporary dwellings within close proximity of the application site.

Proposals

4. The proposals are for a detached dwelling. A full Design and Access Statement has been submitted as part of the application package which sets out the design concept and other relevant information regarding the proposed new dwelling, so it is not considered necessary to duplicate that content here.

Assessment Against Relevant Planning Policy

5. For Rochdale Borough Council, the two most relevant documents for this application are the Core Strategy and the Unitary Development Plan 1996 – 2016. The most relevant documents within those two documents are as follows:

Core Strategy

- SO2 – To Create Successful and Healthy Communities;
- SO3 – To Improve Design, Image and Quality of Place;
- P2 – Protecting and Enhancing Character, Landscape and Heritage;
- P3 – Improving Design of New Development; and
- G4 – Protecting Green Belt.

The Unitary Development Plan

- G/D/2 – Green Belt;
- D/4 – Control of Development in Green Belt – General;
- G/H/1 – Housing;
- H/3 – Residential Development Outside Allocated Areas;
- G/BE/1 – Design Quality;
- BE/2 – Design Criteria for New Development;
- G/BE/9 – Conservation of the Built Heritage; and
- BE/15 – New Development Affecting the Setting of a Listed Building.

6. Paragraph 80 of the National Planning Policy Framework (“the NPPF”) sets out five exceptions which allow the development of homes in the countryside. One of these exceptions is (e) which is:

“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."*

This is highly relevant to this planning application and the reasons why are set out in the following section.

7. It is our case that the proposed development is fully compliant with both national and planning policy and there are no other material planning considerations which should result in the application not being approved by the LPA.

Planning Appraisal

8. In order to assess the proposals, it is important to understand the planning history for the site. The most relevant planning history is as follows:

➤ **Planning Ref:** 23/00030/CPE

Proposal: Application for a certificate of lawfulness (existing) relating to the lawful commencement of development under planning permission 13/01214/FUL

Decision: Granted (03/05/2023);

➤ **Planning Ref:** 22/01250/FUL

Proposal: Erection of detached dwelling including associated access and landscaping

Decision: Withdrawn (10/01/2023); and

➤ **Planning Ref:** 13/01214/FUL

Proposal: Erection of one detached dwelling

Decision: Granted subject to conditions (23/12/2014).

9. An application was submitted for a detached dwelling in 2022 (Ref: 22/01250/FUL), but following discussions with the planning officer, was later withdrawn. The applicant would like to highlight a brief telephone conversation he had with the former planning officer, Mr Jake Powell. The applicant has confirmed that during the telephone conversation, Mr Powell explained to him that he was unable to accept the application as it was, and disagreed with the applicant that the proposed development should be considered as limited infilling within a village, and an

exception for development within the Green Belt. This view was made following discussions with colleagues, as well as a review of the information that was provided by the applicant.

10. The applicant has also confirmed that during the conversation, Mr Powell discussed how he had assessed the proposals and was happy with the change of design from the Caterpillar House to Edge House as the impact on the Green Belt remained relatively minimal. At this point, he advised the client that the best way to proceed with obtaining planning permission would be to withdraw the current application, and to submit a Certificate of Lawfulness to confirm that the lawful commencement for application 13/01214/FUL had taken place. He then advised to resubmit the planning application for the Edge House once this certificate of lawfulness had been granted. The client has stated that Mr Powell finished the conversation by confirming that planning permission would be granted if the applicant was to follow the advice of the Council.
11. This application has been submitted as a result of these discussions. As seen from the planning history, a certificate of lawfulness was granted in May 2023 (Ref: 23/00030/CPE) confirming that lawful commencement of application 13/01241/FUL had taken place. It is now the applicants view that the proposals are compliant with Paragraph 80 of the NPFF and that the design of the proposals should be considered as exceptional quality.
12. As seen within the Design and Access Statement submitted as part of this application package, the proposals have been designed in a way which results in them being outstanding architecturally, and they connect with the immediate and wider landscape whilst having a contemporary 'dynamic expression.' The proposals reference the angular linear rock formations culminating in a 'cliff face' to the North. The overall massing appears solid and robust actively engaging with the immediate and the wider landscape eschewing a robust low-lying character.
13. As a result of this careful and exceptional design, the proposals should be considered to be outstanding quality and reflect the highest standards in architecture. They would significantly enhance the immediate setting and be sensitive to the defining characteristics of the local area. As a result, the proposals comply with national policy and planning permission should be granted.

14. The applicant would also like to make the point that there is a clear fallback position for this application site. As detailed in the planning history, planning permission was granted in 2014 for the erection of one detached dwelling (Ref: 13/01241/FUL). The applicants would now like a different, more suitable design for the application site but a certificate of lawfulness was granted in May 2023 confirming that development had commenced for this application (Ref: 23/00030/CPE) which makes it a viable option for development on the site.
15. Case Law is clear that a fallback position is a material consideration in the decision making process. The weight that can be afforded to that fallback position is for the decision maker, although the decision-maker must follow the tests set out through established caselaw. The weight that can be attributed to the fallback position is determined with the following three tests:
 - A) Whether there is a fallback (i.e. a lawful ability to undertake the development;
 - B) Whether there is more than a theoretical possibility of the fallback occurring; and if so, a comparison must be made between the proposed development and the fallback;
 - C) A consideration of the weight that can be afforded to the fallback.
16. This planning permission (Ref: 13/01241/FUL) represents a real fallback development position for the applicant and therefore, a material consideration. The significance and implications of such a fallback position have been endorsed recently by the Court of Appeal in the case '*Michael Mansell Tonbridge V Malling Borough Council*.' The judgement reaffirmed a number of basic principles of the law relating to a fallback development. The following extracts from the judgement are noted:
 - (1) *Here, as in other aspects of the law of planning, the Court must resist a prescriptive or formulaic approach, and must keep in mind the scope for a lawful exercise of planning judgement by decision makers.*
 - (2) *The relevant law as to a "real prospect" of a fallback development being implemented was applied by this Court in Samuel Smith Old Brewery (see, in particular, paragraphs 17 to 30 of Sullivan L.J.'s judgment, with which the Master of the Rolls and Toulson L.J. agreed; and the judgment of Supperstone J. in R. (on the application of Kverndal) v London Borough of Hounslow Council [2015] EWHC 3084 (Admin), at paragraphs 17 and 42 to 53). As Judgment Approved by the court for handing down (subject to editorial corrections) Mansell v Tonbridge and Malling BC Sullivan L.J. said in his judgment in Samuel Smith Old Brewery, in this context a "real" prospect is*

the antithesis of one that is “merely theoretical” (paragraph 20). The basic principle is that “... for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice” (paragraph 21). Previous decisions at first instance, including Ahern and Brentwood Borough Council v Secretary of State for the Environment [1996] 72 P. & C.R. 61 must be read with care in the light of that statement of the law, and bearing in mind, as Sullivan L.J. emphasized, “... “fall back” cases tend to be very fact specific” (ibid.). The role of planning judgment is vital. And “[it] is important ... not to constrain what is, or should be, in each case the exercise of a broad planning discretion, based on the individual circumstances of that case, by seeking to constrain appeal decisions within judicial formulations that are not enactments of general application but are themselves simply the judge’s response to the facts of the case before the court” (paragraph 22).

- (3) *Therefore, when the Court is considering whether a decisionmaker has properly identified a “real prospect” of a fallback development being carried out should planning permission for the proposed development be refused, there is no rule of law that, in every case, the “real prospect” will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker’s planning judgment in the particular circumstances of the case in hand.*

17. In this case, the applicant is fully aware of their fallback position. The proposals for the current application are of an exceptional design and will significantly enhance the immediate setting of the area. Paragraph 11 of the NPPF sets out a “*presumption in favour of sustainable development*” and this supporting statement has detailed the reasons why the proposed development should be considered acceptable in the context of national policy. The applicant has already taken the steps to implementing the previous planning permission and so, they will continue to develop this planning permission if needed.

Summary and Conclusions

18. This support statement sets out a clear and robust planning case for the granting of planning permission for a single dwelling on the application site.
19. The planning application presented to the LPA is fully compliant with both local and national planning policies and there are not valid reasons why the application should not be supported by the LPA.
20. It is for these reasons, and those set out elsewhere in this supporting statement that it is respectfully suggested that this planning application should be approved and planning permission granted for that which has been applied for.

Courtney Evason BSc (Hons) MCD MRTPI
Steven Abbott Associates LLP
T: 01257 251177