



Appeal Decision

Site visit made on 8 December 2008

**by R M Barker BEng(Hons) CEng MICE
FIHT**

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

The Planning Inspectorate
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**Decision date:
5 January 2009**

Appeal Ref: APP/R4408/A/08/2085973

Land off Fitzwilliam Road, Darfield, Barnsley, S73 9HZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr J S Rose against the decision of Barnsley Metropolitan Borough Council.
- The application Ref 2008/0054, dated 30 January 2008, was refused by notice dated 31 March 2008.
- The development proposed is *outline application for the erection of a dwellinghouse (two storey) (residential development)*.

Decision

1. I dismiss the appeal.

Preliminary Matters

2. This is an outline application also seeking approval for layout, scale and access.

Main issues

3. In my view the main issue in this appeal is the effect of the proposed development on the living conditions of the occupants of the neighbouring dwellings (Nos. 1 & 3 Fitzwilliam Road) by reasons of an overbearing nature and overshadowing.

Reasons

4. In order to protect residential amenity and to minimise overbearing and overshadowing effect, Barnsley UDP SPG 3 sets a minimum spacing of 12 metres from elevations with habitable room windows, assuming no habitable room windows on the opposite elevation.
 5. I note from the application plans that the proposed dwelling would be sited less than 9 metres from the main elevations of the neighbouring bungalows, which have habitable room windows directly facing the appeal site; a spacing significantly less than recommended in the SPG guidance.
 6. Furthermore the proposal would sit to the south west of these bungalows and in my estimation would result in an overshadowing effect in late afternoon/evening given the orientation of the site. Whilst not impinging on the rear gardens of the bungalows it would overshadow the facing principal windows.
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7. In view of all these considerations I conclude that the proposed development would have an unacceptably harmful effect on the living conditions of the occupants of the neighbouring dwellings (Nos. 1 & 3 Fitzwilliam Road) by reasons of an overbearing nature and overshadowing. The proposal would therefore conflict with UDP Policy H8D, which seeks to protect the amenities of existing residents, amongst other things.
8. I am not persuaded that restricting the proposal to a single storey, as suggested by the appellant, would significantly reduce this harm. In coming to this conclusion I note that SPG 3 makes no distinction between single and two storey proposals and in my view the spacing would be such that the harm would still exist.
9. The appellant draws attention to the existing overbearing impact of the dilapidated former commercial buildings, which I acknowledge. However to my mind this is not a good argument for their replacement by new development that would cause unacceptable harm.
10. I do not share the Council's view that the proposal would cause disturbance by vehicle passage on the shared access, given the limited additional movements generated by one dwelling. Furthermore I consider that the matter of loss of privacy could be addressed at the detailed application stage.
11. However, notwithstanding the lack of harm due to disturbance and loss of privacy, for the reasons given above I conclude on balance that the appeal should be dismissed.

R M Barker

INSPECTOR