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**2018/0888**

**Applicant:** David Oliver

**Description:** Erection of 1no dwelling (Outline with all matters reserved apart from means of access)

**Site Address:** Rear of 7 - 29 May Terrace, Barnsley, S70 6HS

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11 letters of objections received.

Councillor Neil Wright has requested the application be taken before the Board

### **Site Description**

The site is rectangular in shape and measures approximately 850m<sup>2</sup>. It sits to the East of the access road serving the rear of several properties fronting May Terrace and to the North of the rear garden areas of the properties fronting Dodworth Road. The land has been subject to some clearance in recent years and has an area of hard core to the North West corner which has been used as a parking area.

The surrounding area is predominantly residential with terraces and semis to the West on May Terrace, detached and semi-detached to the South on Dodworth Road and private amenity spaces associated with properties fronting Dodworth Road to the East. To the North of the site is a small stream with a railway line and associated banking beyond.

### **Site History**

2015/1074 – Erection of 2no. detached dwellings (outline) – refused for the following reasons;

*In the opinion of the Local Planning Authority the proposed dwellings and parking spaces would be contrary to Policy H8D of the Unitary Development Plan, policy CSP29 'Design' and the Council's Supplementary Planning Document 'Designing New Housing Development' in that their positioning and layout would not reflect the established development pattern of the area. As such, it is considered that the proposals would form an 'ad hoc' and incongruous addition to the locality, detrimental to character and visual amenity. Furthermore, the adopted SPD makes it clear that infill development should not be piecemeal so as to prejudice potential comprehensive development of a larger area of land. In this case there is potential for the site, together with neighbouring garden land, to form a larger development site with improved access and amenity options.*

*In the opinion of the local Authority the site is served by a substandard access road which cannot adequately accommodate the manoeuvring and parking requirements of vehicles including that of a refuse truck or fire appliance. Vehicles would therefore not be able to access the site in a safe and convenient manner contrary to the requirements of policies CSP26 (New Development and Highway Improvement) and CSP29 (Design) and the guiding principles of the Council's SPD - Designing New Housing Development and the planning policy statements in the NPPF relating to requiring good design.*

*In the opinion of the Local Planning Authority, activity associated with the proposed dwellings and their parking areas would be materially detrimental to the amenities of the occupants of the adjoining dwellings (May Terrace), and the proposed dwellings themselves, by reason of noise and disturbance attributed to residential activity and vehicular movement in close proximity to the boundaries with their private amenity space. The proposal is*

*therefore contrary to CSP policy CSP29 (Design), UDP policies H8A and H8D, the Council's SPD - Designing New Housing Development and the NPPF core planning principle relating to high quality design and a good standard of amenity for all existing and future occupants of land and buildings*

## **Proposed Development**

Following on from the refusal of 2no. dwellings under application number 2015/1074; the applicant now seeks outline planning permission for 1no. dwelling with all matters except access reserved. The main difference between the 2 applications is the removal of 1 plot and the removal of the 5no. spaces for the existing residents.

An indicative site plan has been supplied with the application showing an 'L' shaped dwelling to the North of the site with a detached garage to the West and a bin store to the South West. Mature planting is also shown along the Western boundary.

## **Policy Context**

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The development plan consists of the Core Strategy and saved Unitary Development Plan policies. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

The emerging Local Plan has now reached a very advanced stage with a consultation on main modification to the plan commencing in July 2018. The consultation follows confirmation from the Local Plan inspector that the plan is capable of being found sound. This by no means represents the Inspectors overall judgement, which will not be known until the final report is issued and the examination closes. However, it does mean increasing weight can be given to the policies contained within the document although, in accordance with paragraph 48 of the NPPF, the extent of this will depend on:

- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

By virtue of the fact the policies have been tested at examination, they have been scrutinised in relation to their degree of consistency with the NPPF and it is therefore highly likely that they are sufficiently compliant. However, it will not be possible to conclude whether many of the objections have been resolved until the inspector has considered the responses to the consultation on modifications and the final report is published. The extent to which weight can be attributed to the Local Plan policies will therefore vary on a case by case basis taking into account the relevant policies and the significance of any unresolved objections.

## UDP Saved Policies

Policy H8 (Existing Residential Areas) – Areas defined on the proposals map as Housing Policy Areas will remain predominantly in residential use.

H8A – The scale, layout, height and design of all new dwellings proposed within the existing residential areas must ensure that the living conditions and overall standards of residential amenity are provided or maintained to an acceptable level both for new residents and those

existing, particularly in respect of the levels of mutual privacy, landscaping and access arrangements.

H8D – Planning permission for infill, backland or tandem development involving single or a small number of dwellings within existing residential areas will only be granted where development would not result in harm to the local environment or the amenities of existing residents, create traffic problems or prejudice the possible future development of a larger area of land.

### Core Strategy

CSP 26 – New Development and Highway Improvement – New development will be expected to be designed and built to provide safe, secure and convenient access for all road users.

CSP29 – Design – High quality development will be expected, that respects, takes advantage of and enhances the distinctive features of Barnsley. Development should enable people to gain access safely and conveniently.

### SPD's

SPD 'Designing New Housing Development'  
SPD 'Parking'

### Emerging Local Plan

Allocation: Urban Fabric

Policies of relevance:

Policy GD1 – General development  
Policy T4 – New Development and Transport Safety  
Policy D1 – High Quality Design and Place Making

### NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Paragraphs of particular relevance to this application include:

Para 109 - development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

Para 124 - The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development,

creates better places in which to live and work and helps make development acceptable to communities.

Para 127 - Planning policies and decisions should ensure that developments.... create places .. with a high standard of amenity for existing and future users.

Para 130 - Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions

### Other material considerations

South Yorkshire Residential Design Guide - 2011

### **Consultations**

Highways DC – object and recommend refusal on grounds due to increased use of a substandard highways that cannot be negotiated by a fire appliance or service vehicle.

Drainage – No objections

Network Rail – No objections subject to guidelines

Regulatory Services – No objections

Ward Councillors – Cllr P. Birkinshaw objects and states the access is unsuitable

### **Representations**

11 Letters of objection have been received. The main points of concern are;

- Reduced highway safety
- Inadequate access for residents and emergency vehicles
- Inaccuracies on the application form
- Increased flood risk
- Loss of trees
- Out of character with the area
- Loss of privacy/increased overlooking
- Increased overshadowing
- Difficult with bin/refuse collections
- Drainage has lack of capacity for additional properties
- Site is not secure and results in health and safety concerns
- Covenant on the land restricting buildings and its use
- Disruption during construction

### **Assessment**

#### Principle of Development

All new dwellings proposed within existing residential areas must ensure that living conditions and overall standards of residential amenity are provided or maintained to an acceptable level both for new residents and those existing, particularly in respect of the levels of mutual privacy. In addition, infill development will only be granted where the development would maintain visual amenity and not create traffic problems or prejudice the possible future development of a larger area of land.

As outlined above, a previous outline application on the site was refused for 2no dwellings under application 2015/1074. It is acknowledged that this application is for a single dwelling, however, the previous application was not refused for the number of dwellings it was refused for highways, visual amenity and residential amenity reasons, as such, the principle of residential development on the land was not acceptable. The previous application was assessed under the same saved UDP policies and Core Strategy policies which this current application is subject to. The NPPF has been updated since the previous application but it still carries forward the same importance on design and highway safety. As such, for this application to be considered acceptable it would need to address and overcome all 3 previous reasons for refusal.

As with the previous application, it has been stated that the land is subject to a legal covenant which restricts the previous owner, and any successor, in terms of what the land can be used for or built upon it. The covenant states 'the purchaser and his successors in title will not erect on the said plot of land hereby conveyed any buildings other than greenhouses and garden sheds...and will not use the land for any purpose other than that of an allotment garden'. However, it should be acknowledged that this is a legal issue which needs to be considered separate of the planning process.

### Residential Amenity

In terms of separation distances the indicative site plan illustrates that 1 no. dwelling could be accommodated on the site which would observe the relevant separation distances set out in Supplementary Planning Document 'Designing New Housing Development'.

As the application is only at outline stage, no details of the internal floor layouts have been supplied, as such, room sizes in comparison to the technical guidelines set out in the South Yorkshire Residential Design Guide would have to be assessed under a reserved matters application. Based on the indicative layout it is acknowledged that adequate garden spaces could be achieved for the proposed dwelling.

The development of the plot for residential purposes would inevitably result in noise and disturbance, associated with residential activity and vehicular movements. The site has been used as a garden/orchard/allotment for a number of years and as such, it is an area residents could reasonably expect to remain undeveloped and quiet. It is acknowledged that the site has recently been used for parking but that was an ad hoc use, used by existing residents. The development of a permanent dwelling at this would result in increased regular activity at the site that would lead to noise and disturbance to the detriment of neighbouring amenities.

### Visual Amenity

Supplementary Planning Document 'Designing New Housing Development' states that dwellings should be orientated to have a frontage to the existing public highway, however, the proposed dwelling would not have a highway frontage. Furthermore it recommends that the space between the proposed dwellings and adjacent dwellings should reflect the prevailing character of the street. In this case, May Terrace is made up of dense arranged semi-detached and terraced dwellings; whereas the indicative plan illustrates 1 no. detached 'L' shaped dwelling. In this respect the proposed scheme would be strongly at variance with the grain of surrounding development, and so be harmful to the character and appearance of the area. Consequently, the proposal would conflict with the objectives of Core Strategy Policy CSP29, saved Policies H8A and H8D of the UDP; and those of the National Planning Policy Framework ("the Framework"). Taken together, and amongst other matters, these policies seek to ensure that new development is responsive to local character and history, and reflects the identity of local surroundings.

The proposal would not integrate well within the development pattern of the immediate area to the detriment of the overall character and layout resulting in an 'ad-hoc' form of development. To allow such proposals can indicate a departure from the long established local pattern of development and could make it harder for the Council to resist further (similar) proposals in future which in turn can progressively erode the area's character, contrary to CSP 29 and SPD 'Designing New Housing Development'. The NPPF also states that "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

The SPD makes it clear in several sections that infill development should not be piecemeal so as to prejudice potential comprehensive development of a larger area of land. The site formerly was incorporated within the garden area of properties fronting Dodworth Road until it was sold off. The land to the East of the site, up to Rosedale Gardens, still forms part of the rear gardens of properties fronting Dodworth Road, some of which are in excess of 80m in length. As such there is potential for the site, together with neighbouring garden land, to form a larger development site with access options. It is acknowledged that several land owners would be involved; however, if the application site was developed it would prejudice the potential comprehensive development of a larger site, contrary to the SPD and policy H8D.

As the application is an outline with only access applied for, limited details with regards to the design, scale and appearance of the property has been submitted. This would need to be assessed further under a reserved matters application if outline approval was given.

#### Highway Safety

The application states that the site formerly had vehicular access to serve a garage, however, several residents who have resided on May Terrace for a number of years refute that claim. Furthermore, a legal document dated 31/12/1952 outlines a covenant stating that the purchaser and his successors in title will not erect on the said plot of land... any buildings other than greenhouses and garden sheds. However, since the previous application the applicant has used the land to park their vehicles, and those of neighbouring residents. This was an ad hoc use, used by existing residents. The current proposal is to create a permanent access for new residents.

May Terrace, together with the rear access roads, are adopted highways, but are both narrow, only being able to accommodate one way traffic flows and lack any segregated pedestrian facilities. In addition, the section adjacent to the side elevation of 29 May Terrace from which access would be taken is not adopted. Given the width of the access to the rear of 1-29 May Terrace, the site could not be accessed entirely from the adopted highway. It is not clear whether the applicant has an access right over the unadopted section, however, that is a private matter.

Access to the properties would not be possible for emergency vehicles, such as fire appliances, and refuse vehicles. It is acknowledged that alternative arrangements through Building Regulations could be introduced to mitigate fire appliance access such as sprinkler systems; however, there would be no alternative for bin collection. Currently refuse vehicles only enter the very top of May Terrace therefore, the future occupants would have a long man carry distance to take the bins to the collection point which would be inconvenient for future occupants (especially on recycling days when 2no. wheelie bins are collected) and would undermine the proper planning of the area.

It is acknowledged that a bin storage area is shown on the indicative plan to the South West of the site which would be closer to the collection point on May Terrace. However, there

would still be a significant man carry distance and the bins are unlikely to be stored there given the bin stores distance from the dwelling itself which would make its location impractical.

For the above reasons it is concluded that the development would not provide a safe and convenient access and would therefore conflict with Policies CPS 26 and CPS 29 of the Core Strategy and the principles of the Supplementary Planning Document "Designing New Housing Development", March 2012, and the National Planning Policy Framework.

### Drainage

Some of the neighbouring residents raised concerns regarding past flooding and sewer issues. The Councils Drainage Officer and Yorkshire Water have been consulted and raised no objections in principle. However, if the application was supported full details regarding the drainage of the site would be required.

### Summary

The development of the plot for a residential property represents a significant departure from the current arrangement. The associated residential activity and vehicular movements would inevitably result in noise and disturbance to the rear boundaries of existing dwelling in an area that residents should reasonably expect to remain undeveloped and quiet.

The proposal would contribute little to the streetscene and would be contrary to the development pattern of the area, resulting in an 'ad-hoc' development, detrimental to visual amenity and policies H8D, CSP29, SPD 'Designing New Housing Development' and the NPPF. Furthermore, the SPD makes it clear in several sections that infill development should not be piecemeal so as to prejudice potential comprehensive development of a larger area of land. In this case there is potential for the site, together with neighbouring garden land, to form a larger development site with access options.

In addition, it is not considered that a safe and convenient access can be achieved and this conflicts with Policies CPS 26 and CPS 29 of the Core Strategy and the principles of the Supplementary Planning Document "Designing New Housing Development", and the NPPF.

For the reasons outlined above, the proposed application does not address the previous reasons for refusal set out in application 2015/1386, as such, refusal is once again recommended.

### **Recommendation**

#### **Refuse**

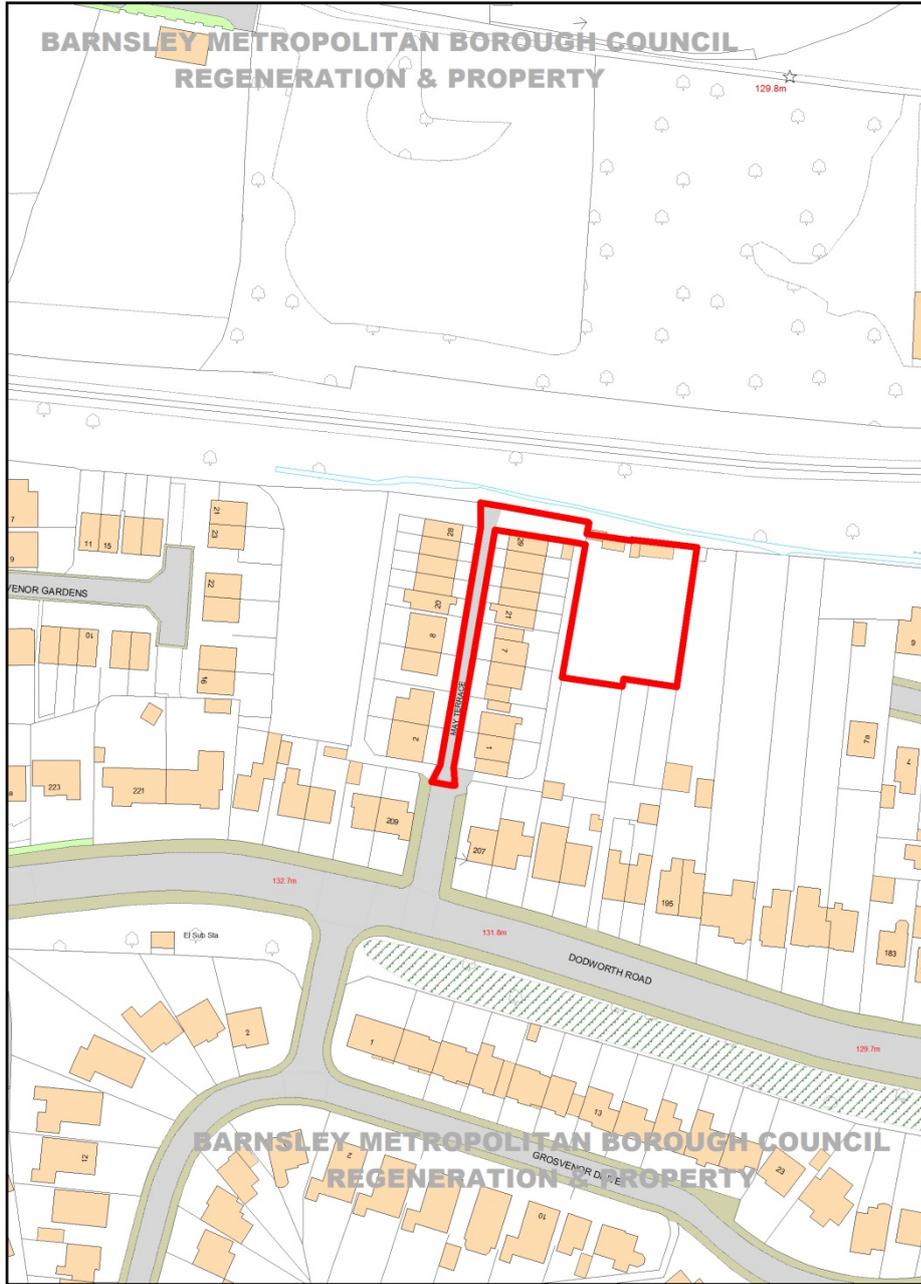
- 1 In the opinion of the Local Planning Authority the proposed dwelling would be contrary to NPPF paragraphs 124 and 130, Saved Policy H8D of the Unitary Development Plan, Policy CSP29 'Design' and the Council's Supplementary Planning Document 'Designing New Housing Development' in that its positioning and layout would not reflect the established development pattern of the area. As such, it is considered that the proposals would form an 'ad hoc' and incongruous addition to the locality, detrimental to character and visual amenity. Furthermore, the adopted SPD makes it clear that infill development should not be piecemeal so as to prejudice potential comprehensive development of a larger area of land. In this case there is potential for the site, together with neighbouring garden land, to form a larger development site with improved access and amenity options.

- 2 In the opinion of the local Authority the site is served by a substandard access road which cannot adequately accommodate the manoeuvring and parking requirements of vehicles including that of a refuse truck or fire appliance. Vehicles would therefore not be able to access the site in a safe and convenient manner contrary to the requirements of policies CSP26 (New Development and Highway Improvement) and CSP29 (Design) and the guiding principles of the Council's SPD - Designing New Housing Development and Paragraph 109 of the NPPF.
  
- 3 In the opinion of the Local Planning Authority, activity associated with the proposed dwelling would be materially detrimental to the amenities of the occupants of the adjoining dwellings (May Terrace), by reason of noise and disturbance attributed to residential activity and vehicular movement in close proximity to the boundaries with their private amenity space. The proposal is therefore contrary to CSP policy CSP29 (Design), saved UDP policies H8A and H8D, the Council's SPD - Designing New Housing Development and Paragraph 127 of the NPPF requiring a high standard of amenity for existing and future users.

PA Reference:-

2018/0888

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