



# Appeal Decision

Site visit made on 28 June 2024

by **D M Young JP BSc (Hons) MA MRTPI MIHE**

an Inspector appointed by the Secretary of State

**Decision date: 30 July 2024**

---

**Appeal Ref: APP/P1045/W/24/3340331**

**Land adjacent Starth House, Starth Lane, Matlock, Derbyshire, DE4 5FD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Cathryn Gomery against the decision of Derbyshire Dales District Council.
  - The application Ref is 23/01127/FUL.
  - The development proposed is a two-storey dwelling.
- 

## Decision

1. The appeal is allowed, and planning permission is granted for a two-storey dwelling on land adjacent to Starth House, Starth Lane, Matlock, DE4 5FD in accordance with the terms of the application, Ref 23/01127/FUL, subject to the conditions in the attached schedule.

## Main Issues

2. These are the effect of the development upon, firstly, the character and appearance of the area and, secondly, protected trees close to the appeal site.

## Reasons

### *Character and appearance*

3. Policies S3 and PD1 of the Derbyshire Dales Local Plan 2017 require new development to contribute to local distinctiveness and sense of place and be of a scale, density, layout and design that is compatible with its surroundings.
4. As I saw when I visited the area, there a wide range of building styles in the locality. Given that five out of eleven properties on Starth Lane are two stories, I do not consider the character of the area is defined by single or one and half storey dwellings as claimed in the Officer's Report.
5. The dimensions of the dwelling would be notably smaller than its immediate neighbour Starth House and would not therefore compete with visually. Considering local topography and intervening distances, the dwelling would not dominate other nearby properties such as Foxdale or Leaway.
6. I am not persuaded that dwellings in the local area typically occupy spacious plots as there are a number of dwellings that have been built within the curtilage of older properties, Foxdale being one example. It seems to me there are a range of plot sizes, and the proposed dwelling would sit comfortably within that range.

7. In terms of the design, the Council raises concerns about a dominance of glazing to the front elevation. However, I do not recognise that description from the drawings provided. There are two generous openings that would serve Bedroom 1 and the first-floor lounge. However, I would be hard pushed to describe the windows to the front elevation as 'expansive'. The Appellant also points out that the amount of glazing to the front elevation has been reduced by 38% from the previously refused scheme in an attempt to address the concerns raised by Officers.
8. With that in mind and considering there are inaccuracies within the same section of the Officer's Report, for example, references to three floors of accommodation and a basement workshop, one wonders whether those comments are a hangover from the previous scheme. In any event, given the eclectic mix of building styles in the area, I do not consider the amount of glazing to be excessive or the design to be 'top-heavy'.
9. The Appellant has provided photographic evidence to demonstrate that the use of contrasting materials is well precedented in the local area. Accordingly, I can see nothing remotely untoward about the proposed palette of materials. Based on the foregoing I am satisfied that the proposed dwelling would not conflict with LP Policies S3 and PD1.

### *Trees*

10. The Council accepts that the dwelling would not encroach into the root protection areas of the protected trees but refers to a lack of information specifically an Arboricultural Method Statement. However, as the Appellant points out this was provided as part of the BS5837:2012 compliant Tree Survey submitted with the application. While I accept it is somewhat generic, it nonetheless sets out the relevant tree protection measures that will be necessary during the construction phase. There is no suggestion these measures would be inappropriate or inadequate.
11. Although the Tree Report did not contain a tree protection plan, it is not unusual for this level of detail to be provided post-consent pursuant to planning conditions. Accordingly, I am satisfied the information sought by the Council has either been provided or can be secured by an appropriately worded planning condition.

### **Other Matters**

12. I have carefully considered the representation from the current occupiers of Foxdale, which sits to the south and downslope of the proposed dwelling. Photographs were submitted which shows the position of the sun just above Starth House in winter. However, having carefully considered the siting and height of the proposed dwelling relative to Starth House, I concur with the Council's assessment that there would not be an unacceptable loss of daylight/sunlight to the occupiers of Foxdale.

### **Conditions**

13. I have imposed standard time limit and plans conditions to provide certainty. To protect the amenity of neighbouring residents, I have imposed a condition to restrict constructions hours. A materials condition is necessary to ensure the satisfactory appearance of the development. I have however amended the condition suggested by the Council to add additional requirements. On that

basis and given the site is not covered by any landscape designations, I do not consider it necessary to request details of hard and soft landscaping. A tree protection plan is necessary to ensure the development does not harm protected trees. Again, I have amended the wording provided by the Council to reflect the fact that an Arboricultural Method Statement has already been submitted.

**Conclusion**

14. For the reasons given above the appeal should be allowed.

*D M Young*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted must be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings and reports: 223-535-P01B, P02D, P03D, P04C, P05E, P06E, P07C, P08C, Design and Access Statement, Tree Survey Oct 2023 Tree Survey and Root Protection Areas Plan 2372-01.
- 3) The hours of construction shall be restricted to 8am-6pm Monday to Friday, and 8am-1pm Saturday. No working Sundays or Bank Holidays.
- 4) Details of all materials to be used in the construction of the external surfaces of the proposed development including the gabion walls and driveways areas shall be submitted to and approved in writing by the Local Planning Authority before the commencement of development. The development shall be constructed in accordance with the approved details.
- 5) Prior to the commencement of the development hereby approved (including all preparatory work), a scheme for the protection of the retained trees and hedgerows, in accordance with BS 5837 (2012), including a tree protection plan shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.

