



Appeal Decision

Site visit made on 9 May 2025

by A. Graham BA(Hons) MA IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 June 2025

Appeal Ref: APP/F1040/W/25/3359757

Land at SK2628 7359, Duck Street, Egginton, Derby DE65 6HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Ellis against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2024/0632.
 - The application sought planning permission for the erection of stable building on land at SK2628 7359, Duck Street, Egginton, Derby DE65 6HL.
 - The conditions in dispute are:
 - Condition No 3 which states that: No work shall take place on the site until details of a management scheme for the storage and disposal of animal and bedding waste has been submitted to and agreed in writing by the Local Planning Authority. The management scheme shall be implemented upon first use of the development hereby approved and subsequently maintained.
 - Condition No 4 which states that: The development hereby permitted shall not be brought into use until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity and
 - Condition 5 which states that: Any access gates shall be hung to open inwards and set back a minimum distance of 10m metres from the near channel edge of the adjacent carriageway.
 - The reasons given for the conditions are; in the interests of protecting the amenity of the area and adjacent occupiers, to reduce the possibility of deleterious material being deposited on the highway and; to enable vehicles to safely draw off the highway before the gates/obstruction is opened.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of stable building on land at SK2628 7359 at Duck Street, Egginton, Derby insofar as it relates to compliance with condition number 5 of those conditions previously imposed in accordance with application Ref DMPA/2024/0632 subject to the following conditions as set out in the schedule below.
2. The appeal is dismissed insofar as it relates to condition numbers 3 and 4 of the above application.

Procedural Matters

3. Since the determination of this application a revised National Planning Policy Framework (The Framework) was published in December 2024. I have therefore determined this appeal in accordance with the revised provisions within the Framework.

Main Issues

4. The main issues are whether the implemented proposal without condition 3 would cause harm to the living conditions of nearby residents and whether the implementation of the proposal without conditions 4 and 5 would cause detriment to the safe and efficient use of the highway.

Reasons

5. The appeal site is a plot of enclosed land sitting alongside the main street of the village of Egginton. The site is pasture land fringed by hedgerows and is overlooked by several houses from across the road. There are also houses adjacent to the plot as one continues further into the village.
6. I saw on my site visit that there was an existing timber stable building upon the site and that the informal access was gated and was enclosed by hedgerows being as it is set back some way from the road's edge. The character of the site was typical of an agricultural site on the edge of a village and, despite its location outside of the settlement boundary, I consider that its existing appearance contributes in a positive manner to the character of Egginton, which, in itself appeared to be a village of some considerable historic and aesthetic character.
7. This part of the main road through Egginton, onto which this site takes access, is a typical village main street which was sparsely trafficked at the time of my visit but nevertheless was an important part of the approach into the centre of the village beyond. The informality and faded road markings contributed to the informal character of the village as a whole.
8. In assessing the need for the proposed conditions, I am aware of the site being in relatively close proximity to nearby houses. I am also aware that the site has been used, and is currently used, as accommodation for horses. I have no evidence before me to suggest that any complaints have been made with regards disturbance through smells or other environmental incidents.
9. However, I consider it true that, with the erection of a new stable building here, that there could arise a need for better management of the inevitable waste produced through an intensity of the land. Therefore, I consider it reasonable and prudent to retain Condition number 3 in the interests of protecting the living conditions of residents and protection of environmental health.
10. The Council recognise that such a building would require servicing for the horses housed within the proposed stable, likely by vehicles. This would likely increase the access and egress into the site and I have no evidence before me to dispute this opinion other than to state the land has been used for such for fifteen years. However, the current use has not accommodated stabling onto the site and I consider that this represents a tangible change to the current situation.

11. Through such likely additional movement therefore, upon a site which appears likely to be wet much of the time due to its location within a flood zones 2 and 3, I consider that there would be the potential for the access to suffer a greater intensity of use by vehicles and that the surface of this entry into the site could erode and be disturbed as a result. This would, in turn, lead to mud and other detritus being deposited upon the highway which could result in a hazard.
12. Although I consider that a 'black top' tarmac hard surface could cause some visual harm to the character of the area, I do consider that a modest area of hard surfacing would be required in order to protect the highway from mud and debris. As such I consider that the addition of Condition 4 is appropriate and necessary.
13. Coming to the final Condition, Condition 5, I saw on my site visit that there is clear visibility along what is a quiet, generally straight, village street. Although this road would inevitably attract some faster moving traffic and greater numbers at certain times, I consider that it would be possible for a large or towing vehicle to be able to safely stop along the highway whilst any gate is opened to allow access into the field as has happened previously. The provision of a set back by around 10m into the site would therefore be significant and excessive within the context that the site exists and, whilst it may be desirable from a highways perspective, its benefit to highway safety would be minimal.
14. As mentioned above, the village street here is straight with good visibility and of a village character whereby drivers would more naturally slow down. There is also an alternative footway to the opposite side of the road that could be used were such movements to cause a temporary obstruction for the short time that a gate was opened. As such I consider Condition 5 is over zealous in its application and would be unreasonable in this case.

Conditions

15. I have added the conditions as suggested by the Council in their original decision notice with the exception of Condition number 5 of the original decision that I have found unreasonable in this specific context.

Conclusion

16. For the reasons given above the appeal is allowed insofar as it relates to Condition number 5 but it is dismissed with regards its appeal against Condition numbers 3 and 4.

A Graham

INSPECTOR

Schedule of Conditions

1. The development hereby approved shall 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 plans/drawings ref. Proposed Site Plan 1588-301 Rev. P2 received 30 July 2024, Proposed Site Plan 1588-302 Rev. P3 received 30 July 2024 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.
3. No work shall take place on the site until details of a management scheme for the storage and disposal of animal and bedding waste has been submitted to and agreed in writing by the Local Planning Authority. The management scheme shall be implemented upon first use of the development hereby approved and subsequently maintained.
4. The development hereby permitted shall not be brought into use until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.
5. Within one month of the development hereby approved being first brought into use, the existing temporary stable block shall be removed from the site in its entirety and disposed of lawfully, and the land restored to its former condition in accordance with a scheme which shall have been previously submitted to and been approved in writing by the Local Planning Authority.
6. A revised Biodiversity Net Gain (BNG) assessment utilising the Statutory Biodiversity Metric shall be submitted to and be approved in writing by the LPA prior to the commencement of the development (including site preparatory works) to provide an assessment of how 10% net gain can be achieved following the submission of revised plans. The BNG assessment shall identify the habitats to be retained, created and / or enhanced on the site supported by an associated landscaping plan. The BNG assessment will include the condition assessments used for baseline habitats and post-development habitat creation.
7. A Gain Plan will be required post-determination. Guidance for LPAs regarding Gain Plans can be found here: <https://www.gov.uk/guidance/biodiversity-net-gain#para25> and the Gain Plan template is here: <https://www.gov.uk/government/publications/biodiversity-gain-plan>
8. A Habitat Management and Monitoring Plan (HMMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. This shall identify the habitats to be retained, created and / or enhanced on the site and specify the appropriate management prescriptions to secure the predicted condition targets, as per the approved biodiversity metric for the application. The HMMP shall also set out a monitoring schedule to ensure targets are met and remedial actions to take if not. Guidance on producing a HMMP can be found here:

<https://www.gov.uk/guidance/creating-a-habitat-management-and-monitoring-plan-for-biodiversitynet-gain>

9. Prior to building works commencing, a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications, and numbers of features, which will include (but are not limited to) the following: • 1 x universal nest box (northern elevations). • 1 x integrated / external bat box (southern elevations) A statement of good practice including photographs should be submitted to the local planning authority prior to the discharge of this condition, demonstrating that the enhancements have been selected and installed in accordance with the above. The enhancements should be implemented in accordance with the approved details and all features retained in that manner thereafter.
10. All excavations shall be covered overnight or else have an escape ramp to prevent entrapment of badgers, hedgehogs, and other wildlife. All pipework greater than 150 mm shall be blanked off at the end of the day and chemicals shall be stored securely. Topsoil mounds shall be checked for badger activity prior to removal or re-use. An ecologist shall be contacted if any evidence of badger activity is found within the application area during development.