

George Henshaw

Erection of stable building

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

Statement of Case

Appeals under Section 78 of the Town and Country Planning Act 1990

Produced for Mr. and Mrs. Ellis
George Henshaw Limited | January 2025

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1 INTRODUCTION

1.1 I have been instructed by Mr. and Mrs. Ellis to prepare and submit a appeal against the decision of South Derbyshire District Council ('the LPA') to grant planning consent for the erection of a stable building on land at Duck Street, Egginton.

1.2 The application which is the subject of this S78 appeal was submitted in May 2024. It was registered by the LPA on 7 June 2024 with the reference DMPA/2024/0632. The application was granted consent on 2 August 2024, with 13 conditions. The following conditions are pertinent to this appeal:

- “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. 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.”

2 ASSESSMENT

2.1 Paragraph 57 of the National Planning Policy Framework states that:

‘Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.’

Condition 3

2.2 It is not disputed that consideration of amenity is a material planning consideration. The necessity of this condition is however disputed. The site has been used for equestrian purposes for over fifteen years. The use of the stable is to provide sheltered accommodation for the horses during adverse weather conditions. Animal waste has been managed on the site for many years without complaint from neighbouring properties. There is no intensification of the use of the land that would have an adverse impact upon the amenity of neighbouring properties to justify this condition.



Figure 1 – Aerial view of the locality with the appeal site outlined in red. Image: Google Earth

- 2.3** As eloquently phrased by the Planning Advisory Service in their guidance ‘Effective use of conditions’, necessity can be answered by the questions ‘Would the development really be unacceptable if the condition was not there? Is it a bit overcautious?’ It is the appellant’s submission that the condition does not meet the test of necessity and should therefore be removed as a condition of the consent.

Conditions 4 and 5

- 2.4** Conditions 4 and 5 relate to highway improvements, being the laying of a hard surfaced access track and the repositioning of the existing gate. No access track was sought by the application and the existing gated access off Main Street would be retained. It is not envisaged that vehicle movements would increase as a result of the stable’s construction, very few vehicle movements are generated by the current equestrian use of the land and as previously stated there is no intensification in the use of the land. The existing grass verge is approximately 6 metres wide, vehicles can safely pull alongside the highway to open the gate before manoeuvring into the site.
- 2.5** The repositioning of the gate 10 metres back from the highway boundary is clearly excessive both for the number of vehicle movements and also for the scale of any vehicles required to maintain this land. The visual impact of a new access track, boundary fence and gate to accommodate this distance would also be undesirable. It is considered that conditions four and five fail the tests of necessity and reasonableness as set out within paragraph 57 of the NPPF.

- 2.6** For the reasons given above, having regard to all matters raised and when assessed against the Framework, it is considered that conditions three, four and five should be discharged from the consent.



Figure 2 – View towards the highway boundary of the site.