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## Appeal Decision

Site visit made on 7 November 2016

**by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

**Decision date: 16<sup>th</sup> November 2016**

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**Appeal Ref: APP/C1435/W/16/3154850**

**Land at Brooklands Avenue, Crowborough, East Sussex TN6 3BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Adrian Dalton against the decision of Wealden District Council.
  - The application Ref WD/2015/2580/F, dated 4 August 2015, was refused by notice dated 11 March 2016.
  - The development proposed is to provide an additional means of access to serve land at Alderbrook Farm and to change the use of the existing verge to form a new agricultural access.
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### Decision

1. The appeal is allowed and planning permission is granted to provide an additional means of access to serve land at Alderbrook Farm and to change the use of the existing verge to form a new agricultural access on land at Brooklands Avenue, Crowborough, East Sussex TN6 3BP, in accordance with the application Ref WD/2015/2580/F, dated 4 August 2015, subject to the following conditions:
    - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
    - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P449.Aгри.02, P449.Aгри.03 and Proposed single standing agricultural access – southern end of Brooklands Avenue, Crowborough (1:500).
    - 3) No development shall take place until details of the form and position of the fencing, which shall comply in full with BS5837:2012 for the protection of those trees, shrubs and natural features not scheduled for removal, has been submitted to and approved in writing by the local planning authority. Such fencing shall be erected prior to the commencement of the development hereby permitted and shall be retained as approved until the completion of the development and only removed with the written approval of the local planning authority.
    - 4) Construction of the access and driveway shown on approved drawing No P.449.Aгри.03, shall be undertaken using the 'hand-dug' method and no mechanical means of excavation within the site shall take place without the prior written consent of the local planning authority.
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- 5) No development shall take place until full details of the proposed means of surface water drainage have been submitted to and approved in writing by the local planning authority. The approved drainage works shall be completed prior to first use of the access hereby permitted.

### **Main Issue**

2. The main issue is the effect of the proposal on the living conditions of occupants of Brooklands Avenue in relation to noise and disturbance.

### **Reasons**

3. The appeal site is a small parcel of land at the end of Brooklands Avenue that would provide access to two fields that are in agricultural use. They are currently laid to pasture with some scrub and hedges along their boundaries. There are no buildings on either of the fields. In total the area that the access would serve is approximately 4 hectares. The existing access to the area is through the forecourt of a dwelling which has its entrance on Alice Bright Lane and along a narrow track leading into the southern part of the two fields.
4. The proposed access would provide an additional means of access for the lawful use of the land for agricultural purposes. The area is not flat and is therefore unlikely to be farmed in a highly intensive manner. It could, nevertheless, be used for arable farming or for grazing of livestock.
5. Brooklands Avenue is a cul-de-sac characterised by detached bungalows. The proposed access would enable farm machinery and other agricultural equipment to be brought through this quiet residential neighbourhood. The use of the street by such vehicles would introduce some additional noise and disturbance for the residents, many of whom I understand are elderly.
6. However, given the limited nature of the lawful activities that could take place on the land, it is likely that the number of additional traffic movements along Brooklands Avenue would be small. They are also likely to be infrequent and seasonal rather than regular. Consequently, it is reasonable to assume that the level of noise and disturbance that residents would experience from the maintenance and use of the land for agricultural purposes would be modest and would only be experienced from time to time.
7. In these circumstances there is no substantiated evidence to suggest that the use of the access would result in unacceptable levels of disturbance that would materially affect the living conditions of residents of Brooklands Avenue. Furthermore, paragraph 32 of the National Planning Policy Framework (the Framework) advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. There is no evidence to suggest that this would be the case here.
8. I conclude that the proposal would not result in unacceptable noise and disturbance for the residents of Brooklands Avenue. In this respect the proposal would comply with saved Policy EN27 of the Wealden Local Plan, which seeks, amongst other things, to prevent development creating unacceptable adverse impacts on the amenities of the neighbourhood arising from noise and traffic movements.

### **Other Matters**

9. From information in the officer report and concerns raised by local residents in relation to the current proposal, I have been made aware of the planning history of the site, including previous proposals for a housing development. Local residents have also drawn my attention to matters of land ownership and the presence of restrictive covenants. However, these matters are not before me and are not issues which are relevant to my assessment of the proposal in the context of a Section 78 appeal. My role is confined to a determination of the current scheme on its individual planning merits in the light of current planning policy.

### **Conditions**

10. In addition to the standard time limit the Council has suggested several conditions in the event that the appeal was allowed. I have considered these having regard to the tests set out in paragraph 206 of the Framework, but amended them where necessary for the sake of clarity and precision.
11. I have imposed a condition specifying the plans in the interests of certainty. A condition securing tree protection works is required to ensure that trees near the access are not harmed or damaged during construction of the access. A condition to secure an appropriate method of construction of the access is required to prevent harm to the trees and hedges and preserve the appearance of the area. A scheme to secure appropriate surface water drainage of the access is required to ensure that it does not give rise to increased risk of flooding.

### **Conclusion**

12. In making my assessment I have had regard to the representations of local residents and their elected representatives. However, on the basis of the evidence presented, I am satisfied that the proposal would not give rise to material harm or conflict with the development plan. I therefore conclude that the appeal should be allowed, subject to conditions.

*Sheila Holden*

INSPECTOR