



Appeal Decision

Site visit made on 8 January 2025

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2025

Appeal Ref: APP/U1430/W/24/3352161

Caprea, Cottage Lane, Westfield, Hastings TN35 4DZ

- 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 Pumphouse Designs against the decision of Rother District Council.
 - The application reference is: RR/2024/233/P.
 - The development proposed is described as: Proposed dwellinghouse attached to Caprea.
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Decision

1. The appeal is allowed, and planning permission is granted for a dwellinghouse attached to Caprea at Caprea, Cottage Lane, Westfield, Hastings, TN35 4DZ in accordance with the terms of the application, Ref: RR/2024/233/P, subject to the conditions in the attached schedule.

Applications for costs

2. An application for an award of costs was made by Pumphouse Designs against Rother District Council. This application forms the subject of a separate decision.

Preliminary Matters

3. In December 2024 the Government published a revised version of the National Planning Policy Framework (the Framework) which replaced the previous version published in 2023. Whilst this made a number of changes to the document, the parts which are relevant to this appeal are restated in the same, or essentially the same, form of words as the previous version and no fundamental changes have been made to those parts. Comments have not been sought from the parties in respect of the new version of the Framework, however, for the reason set out above, I do not consider that any party has been prejudiced by not doing so. I have determined the appeal having regard to the most recent version of the Framework and any references to it are to the December 2024 version unless otherwise stated.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site comprises part of the garden area of a house known as Caprea, a modern two storey house which forms one half a semi-detached building with a single storey dwelling forming the other half. It is located adjacent to the junction

of Cottage Lane with Park View Road. The front garden area is laid to grass and is enclosed by a low timber fence. A double driveway is located adjacent to the gable of the house, accessed via Park View Road. The side and rear garden areas are enclosed by a screen wall with piers and timber infill fencing panels approximately 1.8 metres high.

6. The near vicinity of the appeal site is residential in character with houses fronting on to Cottage Lane and also arranged around short cul-de-sacs leading off it. The houses generally date from the latter half of the twentieth century onwards, with a small number of earlier buildings present to the north of appeal site. The houses are mainly detached or semi-detached properties although there are examples of terraced houses elsewhere in the village.
7. Buildings in the area are predominantly built in brick with some render, painted brickwork, and weatherboarding present. The houses often sit in relatively large plots with front and rear gardens areas. The plot on which the donor property is located appears larger in area than others nearby. Off street parking, in the main, is provided to the front of the houses. Pitched and hipped roofs are both present, generally covered with tiles although slate is used on a number of properties. The houses in the area around the appeal site are varied in design although factors such as the use of similar materials and the horizontal emphasis to the window openings in the more recent houses imparts a degree of visual consistency to the area.
8. The proposed new dwelling would be joined to the existing semi-detached houses. It would essentially be a mirror image of Caprea, albeit approximately 750mm wider and with a flat roofed addition to the rear that is not present on the existing house. This would create a short terrace of three houses. It would, nevertheless, maintain the same ridgeline as the existing house and the front façade would also be in line with that of Caprea. Additionally, the proposal would result in the existing off street parking provision for Caprea being moved from the side to the front of the house alongside the parking provision for the new house.
9. The group of houses to the west side of Cottage Lane that includes the appeal site is comprised of semi-detached properties. However, apart from the houses known as The Kestrels and The Swallows, none of these are symmetrical pairs and a variety of roof forms are present. Nor is there any symmetry in built form or positioning relative to the road across the junction with Park View Road with the bungalow to the north, known as Meadowlarks, being located closer to its plot boundary than Caprea, which is a two storey house. Whilst there is a broadly established building line to the house frontages it is, nonetheless, staggered due to the asymmetric nature and plan form of the semi-detached properties.
10. There is a greater degree of visual regularity to the group of houses opposite, to each side of the junction of Cottage Lane with Stablefield. This arises from the houses all originally being of the same design, albeit that the house closest to the north side of the junction is detached rather than being linked to its neighbour as the others are. Further to the north and south of the appeal site, the street scene becomes more diverse and less regular.
11. The proposed new dwelling would effectively replicate the existing two storey house to which it would be attached. Although it would elongate the overall

frontage, because the existing semi-detached building is not symmetrical, it would not have the visual effect of unbalancing a pair of similar two storey houses.

12. The front garden area of the donor property is currently laid to grass giving the appearance of a green, open, frontage on that side of the junction with Park View Road. Nevertheless, from the red line boundary shown on the submitted drawings there is only a small area adjacent to the radius of the junction which is not within the appellant's ownership. This small, planted, area is mirrored on the opposite side of the junction.
13. The appeal proposal would not affect the extent of the current planted area beyond the site boundary. The owner or occupier of the current house could also alter the landscaping and planting scheme of the private front garden area, which would be largely outside of planning control.
14. The existing house is set some distance from the side boundary and there is a high screen wall with piers and timber infill fencing panels that returns from the side boundary and joins the gable of the house. There is also a double driveway used for the parking of cars. These features reduce the perception of openness to the front of the house. The proposed new house would not extend as far as the property boundary but it would be a similar distance from the carriageway as the gable of the bungalow on the north side of the junction. Whilst this would reduce the perceived width of the space, in terms of built form it would not be dissimilar to the position of the houses relative to the road that exists at the junction of Stablefield with Cottage Lane opposite the appeal site.
15. The Council have granted a Certificate of Lawful Use or Development for creating a hard surface to the front of Caprea accessed from Cottage Lane. Whilst this relates to parking spaces in respect of the existing house, that fact that a large hardstanding area with an access onto Cottage Lane could be constructed under permitted development rights is nonetheless a factor that must be considered. The works covered by the Lawful Development Certificate are essentially the same as those proposed by the appeal scheme. I also noted when I visited the site that driveways to the front of houses are common in the area and are quite extensive at some other properties.
16. The reason for refusal refers to the original design concept for Cottage Lane and Park View Road. However, the Council has adduced very little evidence in respect of this design concept, beyond noting that the junction is defined by a green and open character either side. No drawings or supporting documents, such as design briefs, design and access statements, or masterplans relating to development in the area have been submitted to illustrate the original design concept for the area. Consequently, there is little to support the Council's position on this point.
17. The appeal site is located within the High Weald National Landscape where the Framework requires that Great weight should be given to conserving and enhancing the landscape and scenic beauty of the area. The appeal site is, however, within the built up area of Westfield and sits alongside numerous other houses. Within this context, I find that any effect on the National Landscape would be a neutral one. I have also noted that the Council have not raised any objections in this respect. In addition, the appeal site is not within, or adjacent to, a conservation area, nor has my attention been drawn to any nearby listed buildings.

18. Having regard to the above, although the proposed development would undoubtedly result in a change to the appearance of the area, change is not synonymous with harm. The character of the area as a relatively low density residential area would be maintained. The architectural diversity of the area is such that the proposed new house could be accommodated within it without appearing excessively cramped, over-dominant, or visually inconsistent with its neighbours. The proposal would not reduce the extent of the planted area adjacent to the junction, which is not within the appeal site.
19. I therefore find that the proposed development would not cause harm to the character and appearance of the area. It would comply with the relevant requirements of Policies OSS4(iii) and EN3 of Rother District Council Local Plan Core Strategy 2014 and Policy DEN1 of Rother District Council Development and Site Allocations Local Plan 2019 which, when read together, expect new development to be of a high standard of design that has regard to the character and appearance of the locality, be compatible with the use of adjacent land, and to maintain and reinforce the natural and built landscape character of the area in which it is to be located.

Other Matters

20. Apart from the matter covered above, the Council has not raised any other objections to the proposed development.
21. A number of other points have been raised by interested parties. Whilst concerns have been raised in respect of overlooking of residents in Park View Road, the relative position of the proposed new house to the properties in Park View Road and the distance between them is such that this would be extremely unlikely to occur. Even if there was a line of sight, the distance between the appeal site and the existing properties is well in excess of the commonly applied separation distance of 21 metres between facing elevations.
22. The proposal would result in vehicles being parked in what is currently the front garden of the exiting house. Nonetheless, no substantiated evidence has been put to me that would indicate that vehicles parked within the curtilage would obstruct sight lines at the junction of Park View Road with Cottage Lane. Although I accept that vehicles could park on the carriageway, this can occur at present and I consider that if the development were to proceed, the presence of the vehicular access would render it less likely that vehicles would park on the carriageway of Cottage Lane close to the junction. I also note that the Highway Authority have not raised any objection to the proposal in terms of highway safety.
23. There will inevitably be a degree of noise and disturbance during any construction works and, of itself, this is not a reason to withhold planning permission. Any disruption during the construction period could, however, be minimised through the implementation of a Construction Management Plan secured by way of a planning condition.
24. Although concerns have been raised regarding a potential increase in flooding of nearby properties, no substantiated evidence has been put to me that would indicate either that there is an existing problem with flooding, or that this would be exacerbated by the proposed development. Similarly, no substantive evidence has been provided which would indicate that an additional dwelling would put an unacceptable stress on local services or facilities.

25. Interested parties have suggested that there is no need for further housing on Cottage Lane. Neither of the main parties, nor those making representations, have submitted any substantive evidence in respect of local housing need. I am, however, mindful that it is common ground between the main parties that the Council cannot demonstrate a deliverable 5 year housing land supply. In the absence of any verifiable evidence to the contrary, this weighs in favour of the application notwithstanding that I have found the proposal would not conflict with the policies cited in the reason for refusal and no other policy or technical objections have been raised by the Council.

Conditions

26. I have had regard to the list of conditions suggested by the Council. Two of the conditions suggested by the Council were pre-commencement conditions. The appellant is agreeable to these conditions being imposed. In order to provide certainty in respect of what has been granted planning permission, I have attached a condition specifying the approved drawings/plans.
27. There are a number of established trees outside, but adjacent to, the site boundary which contribute to the character of the area. These are also close to where the new building would be constructed. This necessitates protecting the trees from damage during the construction period. The tree protection is required for the whole duration of the construction period, and this necessitates the condition being pre-commencement. I have amended the wording suggested by the Council to remove a clause allowing ad-hoc amendments to the tree protection measures and to add an implementation clause.
28. The appeal site is located close to other residential properties and is adjacent to relatively narrow roads that serve these properties. It is necessary to regulate the construction related activities, through a Construction Management Plan, in order to minimise the effects of the works on the occupiers of nearby residential properties and to ensure that the works do not obstruct, or compromise, the safe operation of the highway. As these controls would be required for the whole duration of the construction period, it is necessary that this condition be pre-commencement.
29. No details of the proposed surface water drainage arrangements have been provided beyond the planning application form stating that surface water would be disposed of to a soakaway. In order to ensure that a properly designed and functioning system of surface water drainage is provided to prevent flooding of the appeal site or adjoining properties it is necessary to impose a condition requiring that details of the proposed arrangements be submitted for approval and thereafter implemented.
30. The application does not provide details of the proposed external materials for the new house other than to state that these will match the existing building. As the proposed development would be attached to two existing houses and in a prominent location, in order to maintain the character and appearance of the area it is important to ensure that the materials used closely match in colour and texture those used on the building to which it will be joined. The condition suggested by the Council is insufficiently precise to ensure that this would be the case. I have, therefore, amended this suggested condition to require that samples of the

external materials be submitted for approval and, thereafter, the approved materials used in the construction.

31. Policy DHG4 of the Rother District Council Development and Site Allocations Local Plan requires that all new dwellings are required to meet Requirement M4(2) of the optional requirements in the Building Regulations. The application does not contain specific information which would demonstrate that this would be the case and it is therefore necessary to impose a condition to require this.
32. Policy DRM1 of the Rother District Council Development and Site Allocations Local Plan requires that all new dwellings are required to be designed to achieve water consumption of no more than 110 litres per person per day set out in the optional requirement in Part G of Schedule 1 of the Building Regulations. The application does not contain specific information which would demonstrate that this would be the case and it is therefore necessary to impose a condition to require this.
33. In order to achieve an appropriate form of development and to prevent vehicles from being parked on the highway near to the junction with Park View Road, it is necessary to impose a condition requiring that the vehicular hardstanding area be provided prior to the dwelling being occupied and thereafter retained for the purpose of parking vehicles.
34. Policy TR3 of the Rother District Council Local Plan Core Strategy expects new development to provide mitigation against the transport impacts of the development and to prioritise the needs of pedestrians and cyclists. The proposal does not include secure and covered storage for bicycles. In order to meet the requirements of Policy TR3, it is necessary to attach a condition requiring that this be provided.
35. The Council have suggested that a condition is necessary requiring details of a proposed landscaping scheme be submitted for approval. The reason given for this suggested condition is to ensure the creation of a high-quality public realm and landscape setting. The proposal relates to land within the curtilage of an existing house and, following the development, the appeal site would form the private domestic curtilage of the new house. The appeal proposal would not affect the existing landscaped/planted area adjacent to the curtilage nor would it create any new, incidental, landscaped areas that would subsequently form part of the public domain.
36. What is planted within private garden areas does not normally fall under planning control. Whilst the planning officers report does refer to an amendment to the original submission which indicates area that could be landscaped or planted, the report does not identify any specific form of planting or landscaping that would be necessary to make the proposed development acceptable. Although the site frontage is prominent, it would not be reasonable to seek to control what is planted in an essentially private garden. In addition, any planting could be removed or changed by a future occupier as it would not be reasonable to require that it be retained. From the submitted evidence, this suggested condition is neither reasonable nor necessary and consequently I have not imposed it.
37. The Council has also suggested that a condition is required removing the permitted development rights for certain extensions and alterations to the proposed house and alterations to the roof. Paragraph 55 of the Framework

states that planning conditions should not be used to restrict national Permitted development rights unless there is clear justification to do so. The Planning Practice Guidance also advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity¹.

38. The reason given for the condition refers to the requirements of Policy OSS4 that new development respects and does not detract from the character and appearance of the locality, and to Policy EN3 which broadly requires new development to be designed to a high standard. However, neither the Planning Officer's report, nor the Council's Statement of Case sets out in any detail why the operation of these permitted development rights should be restricted or what harm might arise if they were not withdrawn. Although the appeal site is located within a National Landscape, this is not cited as a reason for imposing the condition, nor did it form part of the Council's reason for refusal.
39. The evidence put to me in this case does not set out a clear justification to restrict the operation of the national permitted development rights and I find that such a condition would be neither necessary nor reasonable. I have therefore not included this condition.

Conclusion

40. I have found that the proposal would comply with the relevant requirements of the development plan for the area. No material considerations have been identified that would indicate that a decision should be made other than in accordance with the development plan.
41. For the above reasons, I therefore conclude that the appeal should be allowed.

John Dowsett

INSPECTOR

¹ Use of Planning Conditions - Paragraph: 017 Reference ID: 21a-017-20190723

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos. : Drawing no. (7811/1/B) – Proposed Site Layout and Street Scenes; Drawing no. (7811/2/A) – Proposed Layout – Floor Plans and Elevations; Drawing no. (7811/LBP) – Location Block Plan.
- 3) No development shall take place until a detailed Arboricultural Method Statement (AMS) has been submitted to, and approved in writing by, the local planning authority. The AMS shall include all relevant details to demonstrate that the trees on the adjoining pavement (along the northern boundaries of the application site will not be damaged/destroyed as result of the construction works of the dwelling). Relevant details may include, but are not limited to, construction methods, construction traffic management, excavation methods, finished levels, ground protection, landscaping methods and materials, material storage, service runs. The AMS shall also include details of a clerk of works schedule that specifies arboricultural supervision at appropriate stages of the development process. Thereafter the development shall be implemented in accordance with the approved AMS.
- 4) No development shall take place, including any ground works or works of demolition (if any), until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details as appropriate including but not restricted to the following matters:
 - a) Details of arrangements to ensure that access in and out the cul-de -sac (Park View Road) and similar is not obstructed by construction vehicles, machinery or materials at any time,
 - b) The anticipated number, frequency and types of vehicles used during construction,
 - c) The method of access and egress and routeing of vehicles during construction,
 - d) The parking of vehicles by site operatives and visitors,
 - e) The loading and unloading of plant, materials and waste,
 - f) The storage of plant and materials used in construction of the development,
 - g) The erection and maintenance of security hoarding,
 - h) The provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
 - i) Details of public engagement both prior to and during construction works.
- 5) No development above ground level shall commence until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority and the dwelling shall not be occupied until

the drainage works to serve the development have been provided in accordance with the approved details.

- 6) No development above ground level shall commence until samples of all external facing materials have been submitted to, and approved in writing by, the local planning authority. Thereafter, the development shall be carried out in accordance with the approved sample details.
- 7) The dwelling hereby permitted shall not be occupied until it has been constructed in accordance with Part M4(2) (accessible and adaptable dwellings) of Schedule 1 of the Building Regulations 2010 (as amended) for access to and use of buildings.
- 8) The dwelling hereby approved shall meet the requirement of no more than 110 litres/person/day water efficiency set out in Part G of Schedule 1 of the Building Regulations 2010 (as amended) for water usage. The dwelling hereby permitted shall not be occupied until evidence has been submitted to and approved in writing by the local planning authority to demonstrate that the dwelling has been constructed to achieve water consumption of no more than 110 litres per person per day.
- 9) The development shall not be occupied until the parking area has been provided in accordance with the approved plans and the area shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.
- 10) The new dwelling hereby approved shall not be occupied until a secure and covered cycle parking store (for at least three cycles) has been provided in accordance with the details which have been first submitted to and approved in writing by the local planning authority. The cycle store shall thereafter be retained for that use and shall not be used other than for the parking of cycles.