



**Application No:** 161584

**Location:** Land Adj, Coronilla, Little Horkesley Road, Wormingford, Colchester, CO6 3AW

**Scale (approx):** 1:1250

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**7.7 Case Officer: James Ryan****MINOR**

**Site:** Coronilla, Little Horkesley Road, Wormingford, Colchester, CO6 3AW

**Application No:** 161584

**Date Received:** 28 July 2016

**Applicant:** Mrs Sophie Harvey

**Development:** Application to remove/vary condition 2 of planning permission 152553.

**Ward:** Fordham & Stour

**Summary of Recommendation:** Conditional Approval

**1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Chapman for the following reason:

The original permission for this development was varied by a non-material amendment regarding the position of the dwelling in relation to the highway and also minor elevational changes. That has now been followed by this Application. The immediate neighbours, supported by local residents, have been concerned that the current position of the dwelling is detrimental to their privacy and outlook and the additional height also impacts on the landscape of the Dedham Vale Area of Outstanding Natural Beauty. Considerable correspondence has been entered into with the planning team by the residents and I would like this decision to be considered by the Committee so the residents can have confidence in the way the process has been dealt with.

**2.0 Synopsis**

- 2.1 The key issues explored below are the position and height of the building as built and the impact the scheme has on the character of the area and the impact on neighboring amenity. It is concluded that although the scheme was not built in complete accordance with the amended plans what has been built is acceptable and no further action need be taken.

**3.0 Site Description and Context**

- 3.1 The site is a plot of land that has planning permission (via appeal) for a dwelling. The site is in the countryside and has residential neighbours to the east (Coronilla) and to the west (Roseville). The garden of Roseville encloses the rear of the site to the north.

**4.0 Description of the Proposal**

- 4.1 In effect this application seeks approval for the dwelling that is built on site. This application is needed as the dwelling was not built in precise accordance with the approved plans as required by condition 2 of 152553.

## **5.0 Land Use Allocation**

- 5.1 The site is in the defined countryside. It is also in the Dedham Vale Area of Outstanding Natural Beauty.

## **6.0 Relevant Planning History**

- 6.1 140493 – New dwelling, refused but allowed on Appeal.  
6.2 151346 – New dwelling (revised design) withdrawn.  
6.3 152553 – New dwelling approved.

## **7.0 Principal Policies**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
UR2 - Built Design and Character  
TA5 - Parking  
ENV1 - Environment  
ENV2 - Rural Communities

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity  
DP19 Parking Standards  
DP22 Dedham Vale Area of Outstanding Natural Beauty

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

N/A

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Backland and Infill  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

- 8.1 ECC Highways: As this proposal appears to make little or no material changes to the vehicular access, parking and turning arrangements, intervisibility or surfacing at that vehicular access, the Highway Authority does not object to the proposals as submitted.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## **9.0 Parish Council Response**

- 9.1 The Parish Council have stated that:

*Wormingford Parish Council resolved to object to the application to remove/vary condition 2 of planning permission 152553 at its September meeting on the following grounds:*

*The property is now nearing completion and has been built further back than the approved application which was reported to CBC in March 2016.*

*The properties roof is higher than the approved application and therefore has a more imposing look to the current street scene.*

*Alterations to the application should have been presented prior to the work taking place.*

*We would ask that you take these comments into account when looking at this application. We understand that Cllr Chapman has asked for this application to be called in to committee.*

## **10.0 Representations**

- 10.1 Ten representations from four addresses were received. In summary, these objected on the following grounds:

- The dwelling has not been built in accordance with the approved drawings.
- The house is bigger than approved.
- The ridge is higher than approved.
- The dwelling is harmful to the character of the area and obtrusive to the street scene.
- The dwelling projects further back than approved and that is materially harmful.
- The dwelling is harmful to neighbouring amenity.
- I hope there will be no balcony on the rear elevation.
- The dwelling sticks out like a sore thumb.
- The enforcement team took too long to act – enforcement notice should have been served as soon as the roof trusses went on at the wrong height.
- If the dwelling was in the right place I could not see it from my patio doors.
- This application does not appease the neighbours.
- There has been no neighbour consultation from the applicants.
- The applicants should be made to build the scheme in accordance with the approved drawings.
- The amended plans are wrong or are purposely misleading.

The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

- 11.1 The parking provision is unchanged since the previous approval. The scheme has off-street parking in excess of the adopted parking standards.

## **12.0 Open Space Provisions**

- 12.1 This application generates no off-site open space requirements. The on-site amenity provision complies with adopted policy.

## **13.0 Air Quality**

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

## **14.0 Development Team and Planning Obligations**

- 14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

### Background:

- 15.1 This application follows the approved scheme 152553. The scheme has been built out but was not built in accordance with the plans. In this case the Ordnance Survey base that the original agent was working from proved to be significantly inaccurate and this has resulted in the dwelling being positioned further back from the back edge of the highway than originally approved.
- 15.2 The changes from the approved scheme can be seen on the new plans that have been drafted to accompany this application. These have been taken from a new topographical survey of the site which has recently been carried out. A new block plan showing the approved scheme overlaid with the actual position of the dwelling and the actual position of the neighbours has been supplied.
- 15.3 The overlay plans show the revised siting of the dwelling within the site, approximately two metres north to that previously approved. In effect, the siting realigns the front of the dwelling with the front of the adjacent dwelling 'Coronilla'. The topographical survey shows that the adjacent properties 'Roseville' and 'Coronilla' were also not plotted accurately on the OS plan.

- 15.4 In design terms there have been minor alterations to the fenestration. These changes include the removal of a ground floor window on the western elevation of the dwelling and the installation of tri-fold doors in place of two windows. On the first floor a set of bi-fold doors serving “bedroom one” has been installed instead of a double door with windows either side.
- 15.5 The survey shows that, as constructed, the ridge is actually slightly lower than previously approved, measuring at 8500mm which is 185mm lower. Representations contest this, however the dwelling must be assessed as it stands.
- 15.6 Many of the representations note that the dwelling is not in the correct position. They state that as it has not been built in accordance with the approved plans this amendment application should be refused for that very reason. It is noted that the fact there has been a breach of planning control is not a reason for refusal in its own right. The question that must be asked is ‘have the changes that have resulted from the differences from the approved scheme caused material harm to the character of the area or to neighbouring amenity’?

For the sake of absolute clarity, this application is to retain the house, as it is built on site at present.

#### The Enforcement Process:

- 15.7 Objections have been received stating that the Council did not act quickly enough with regards to enforcing against the issues raised. In response: The Council thoroughly investigated the issues raised with a number of visits from the case officer at the time and the enforcement team. It was not considered expedient to serve an enforcement notice as the changes were held to be acceptable by the case officer. The applicants were told to make an application to rectify the issues. The Council has therefore dealt with this in an entirely reasonable manner.

#### Design and Character:

- 15.8 The site has been visited by the current case officer and, notwithstanding the fact the house has not be built as approved, the scheme is considered to be acceptable in terms of its impact on the street scene and on the character of the area. In fact as the dwelling sits back further from the road than as approved it could be argued that the changes reduce its impact from the public domain. It is not held that this scheme has any material difference on the AONB when compared to the approved scheme 152553.
- 15.9 It is important to note that domestic permitted development rights were removed via condition 4 of 152553 and this will be carried over along with the other conditions attached to that consent. This will enable the Council to control any further additions and outbuildings.

### Impact on Neighbouring Amenity:

- 15.10 As built it is not held that this scheme has any material impact on neighbouring amenity beyond that which was approved before. The projecting rear element sits further down the garden by virtue of the dwelling sitting further back in the site. However, this is not held to create a flank that is materially oppressive to the neighbour to the west. The scheme is not held to be oppressive to the neighbour to the east. The scheme as built does not cause a materially harmful loss of light to the neighbours either due to the north facing nature of the gardens.
- 15.11 The dwelling does not result in overlooking that is materially harmful to the neighbours on either side. The first floor windows in the flanks serve bathrooms. The double doors on the rear at first floor level look out down the garden and to the fields to the north and do not give an angle of overlooking to the neighbours that is considered materially harmful. No balcony is proposed and one could not be installed without the need for a dedicated planning application.

### **16.0 Conclusion**

- 16.1 The dwelling as built does not accord with the approved drawings hence the need for this application. The principle of residential development on the site was secured at appeal. With the principle of a dwelling on site agreed via the appeal process, regardless of the previous approval the scheme is held to be acceptable in its own right and therefore an approval is recommended.

### **17.0 Recommendation**

- 17.1 APPROVE subject to the following conditions:

### **18.0 Conditions**

#### **1 - Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PL/01 Rev A, PL/02 Rev C, PL/03 Rev A, PL/04 Rev A, PL/05 and PL/06 all as received on 19/09/2016.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

#### **2 - \*Removal/Variation of Condition(s) Approval**

With the exception of condition(s) 2 of Planning Permission 152553 which are hereby varied, the requirements of all other conditions imposed upon planning permission 152553 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

## **19.0 Informatives**

### **(1) ZT0 – Advisory Note on Construction & Demolition**

The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

### **(3) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either BEFORE you commence the development or BEFORE you occupy the development. **\*\*This is of critical importance\*\***. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. **\*\*Please pay particular attention to these requirements\*\***. To discharge the conditions and lawfully comply with your conditions you should make an application online via [www.colchester.gov.uk/planning](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

## **20.0 Positivity Statement**

20.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.