



Appeal Decision

Hearing held on 27 November 2008

Site visit made on 27 November 2008

by **Joanna C Reid** BA(Hons) BArch(Hons)
RIBA

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

The Planning Inspectorate
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Decision date:
15 December 2008

Appeal Ref: APP/Q1445/A/08/2074593

106 Longhill Road, Ovingdean, Brighton BN2 7BD

- 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 and Mrs A McGilligan against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03875, dated 12 October 2007, was refused by notice dated 14 April 2008.
- The development proposed is "demolition of existing house and construction of replacement dwelling with associated detached garage".

Application for costs

1. At the hearing an application for costs was made by Mr and Mrs A McGilligan against Brighton & Hove City Council. This application is the subject of a separate decision.

Decision

2. I allow the appeal, and grant planning permission for "demolition of existing house and construction of replacement dwelling with associated detached garage" at 106 Longhill Road, Ovingdean, Brighton, BN2 7BD, in accordance with the terms of the application, Ref BH2007/03875, dated 12 October 2007, and the plans numbered 2007.08.01, 2007.08.02, 2007.08.03, 2007.08.04, 2007.08.05, 2007.08.06, 2007.08.07, 2007.08.08, 2007.08.09, 2007.08.10, 2007.08.11, 2007.08.12, 2007.08.13, 2007.08.14 and the site survey submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) Notwithstanding the provisions of the *Town and Country Planning (General Permitted Development) Order 1995* (or any order revoking and re-enacting that Order with or without modification), no window, dormer window or roof light, other than those expressly authorised by this permission, shall be constructed in the south-east elevation or in the north-west elevation of the dwelling hereby permitted.
 - 3) Notwithstanding the provisions of the *Town and Country Planning (General Permitted Development) Order 1995* (or any order revoking and re-enacting that Order with or without modification), no garage shall be erected other than the garage expressly authorised by this permission.
 - 4) No development shall take place until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the local

planning authority. Before the dwelling hereby approved is first occupied the works for the refuse and recycling storage facilities shall be carried out in accordance with the approved details and they shall be retained thereafter.

- 5) No development shall take place until samples of the materials (including colour of render, paintwork or colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until the levels of the proposed development including floor levels and hard and soft landscaping levels relative to the surrounding properties in metric units and related to Ordnance Survey Datum have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) The annex hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling hereby permitted.
- 8) No development shall take place until the existing dwelling known as 106 Longhill Road has been demolished.
- 9) The roof area of the canopy over the external doors in the north-east elevation of the dwelling hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
- 10) Details of the double garage hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 11) No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing by the local planning authority, and any trees or plants which within a period of 3 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives approval in writing to any variation.

Main issues

3. At the hearing it was agreed that the Council's concerns about the provision for refuse and waste recycling in Reason for Refusal 3 could be dealt with by condition if the appeal were to be allowed. This would satisfy Policies SU2 and QD27 of the *Brighton & Hove Local Plan 2005* (LP).
4. From my inspection of the site and its surroundings, and from the representations made at the hearing and in writing, I therefore consider that the main issues in this appeal are the effect that the proposal would have on:
 - the character and appearance of the surrounding area,

- the living conditions of the occupiers of 104 and 108 Longhill Road with regard to overlooking and loss of privacy, and
- sustainability with regard to car parking.

Reasons

Character and appearance

5. The appeal site is in a stretch of Longhill Road where there is mainly residential development on one side of the road only. On the other side of the road is an area of open land which is designated as a Local Nature Reserve in the Local Plan, beyond which there is some development on the lower slopes of the hill. Close by there is no distinct building line in Longhill Road and the dwellings, which are in a variety of mainly pitched-roofed styles, are on plots which slope down towards the road.
6. The existing dwelling, which is located towards the middle of the site and at a substantially higher level than Longhill Road, is a white painted bungalow which has been extended upwards within a slate-hung mansard roof. Due to its form and its siting the dwelling contrasts starkly with the dwellings around it. It is not particularly noticeable in the street scene in Longhill Road, due to its set back siting and the tall walls along its frontage and along those of its immediate neighbours. However, it is prominent in the wider area, including in the view from the drive to Ovingdean Hall School where Ainsworth Avenue meets Greenways. On 11 July 2006 planning permission ref BH2006/01628 was granted subject to conditions for "removal of existing mansard roof, recladding external walls and extensions to front and side". This would enable the existing dwelling to be altered and extended to provide a contemporary 3-storey 5-bedroom house with a 2-bedroom annex.
7. In the appeal proposal the existing dwelling would be demolished to provide space for the garage and part of the back garden for the new house. The proposed 3-storey 5-bedroom house with a 2-bedroom annex would be sited fairly close to Longhill Road. It would be set back a little from the front of the dwelling at 108 Longhill Road on one side and on the other side it would be slightly in front of the dwelling at 104 Longhill Road. Whilst there would be no increase in density in terms of dwellings per hectare, because of its siting the house would be more convenient for the future occupiers to use, particularly in terms of safely reaching the front door, and this would make more efficient use of the site. As there would be a deeper back garden than at present, the proposal would make more effective use of the site, and the leafiness in that garden would have a positive impact on the character of the locality.
8. Although it would plainly be a large house, it would not be unusually deep or wide or tall. There would be adequate side space to provide a setting for the house within its plot, and there would be ample front and back gardens. At the front it would have a clear 3-storey appearance for its full width beneath a simple low-pitched butterfly roof with a central valley. This would respect the part 3-storey appearance of the immediately neighbouring dwellings, at 104 and 108 Longhill Road. The main roof would be similar in height to the ridge of the dwelling at 104 Longhill Road, and the roof over the relatively small principle staircase core would be only a little taller, so it would not cause harm.

9. The house would have a contemporary appearance, with a zinc roof, and rendered and timber clad walls, but it would not be out of keeping as there is already a wide palette of styles and materials in the locality. Although the garden wall at the front of the site would largely be retained, the house would be visible from Longhill Road. However, due to its sympathetic siting, form, scale, design and materials, it would harmonise with the street scene in Longhill Road. It would also satisfy LP Policy QD1 which states, amongst other things, that the replication of existing styles and pastiche designs will be discouraged. The design of the house would meet the needs of its occupiers whilst respecting the characteristics of its site and the wider locality.
10. I consider that the proposal would not harm the character and appearance of the surrounding area. It would satisfy LP Policies QD1, QD2 and QD3.

Living conditions

11. Both of the dwellings at 104 and 108 Longhill Road have windows in their side walls which face the appeal site at the sides. At 108 Longhill Road there are some clear-glazed windows fairly close to the common boundary. In the appeal dwelling the side-facing window in the triple aspect living room/kitchen would be about 3m from the common boundary. Some mutual overlooking could occur if the intervening vegetation were to be removed but it would not harm the living conditions of the occupiers of either dwelling as it could be readily overcome in either case, for example, by the use of blinds.
12. There are 2 dormer windows at 104 Longhill Road which face the side of the appeal site, but at the site visit both appeared to be obscure-glazed. There would also be roof windows in the sloping roof to the side extension being constructed at 104 Longhill Road. As the staircase glazing would be about 3m from the side boundary and about 6m from the dormer windows, any mutual overlooking that were to occur would not be harmful. The high level window in the study would face the solid side wall of the extension being constructed at 104 Longhill Road so there would be no overlooking or loss of privacy.
13. It would not usually be reasonable to expect complete privacy in a front garden. There is a substantial balcony at the front of 108 Longhill Road about 2 floors above the garage floor from which the front of the appeal site can be overlooked, and a balcony is proposed at the front of the side extension at 104 Longhill Road. As the balconies at the appeal dwelling would be at the front and the upper balconies would be inset from the side walls, and because the appeal house would be a little in front of the dwelling at 104 Longhill Road, any mutual overlooking that could occur would not cause a loss of privacy to the neighbouring occupiers on either side which would harm their living conditions.
14. If the flat roof of the rear-facing entrance canopy were to be used as a balcony or roof garden, it would enable unacceptable overlooking of the back gardens of 104 and 108 Longhill Road to occur. Because the consequent loss of privacy would harm the living conditions of those neighbouring occupiers, it would be necessary to impose the condition which was raised at the hearing.
15. I consider that the proposal would not harm the living conditions of the occupiers of 104 and 108 Longhill Road with regard to overlooking and loss of privacy. It would satisfy LP Policy QD27.

Car parking

16. LP Policy TR1 seeks for proposals to provide for the demand for travel they create and to maximise the use of public transport, walking and cycling. LP Policy TR19 seeks compliance with the Council's parking standards. At the hearing it was stated that the Council's *Supplementary Planning Guidance SPGBH Note 4 Parking Standards* (SPGBH4) takes account of Planning Policy Guidance Note 13: *Transport* (PPG13). The objectives in PPG13 include to promote more sustainable transport choices and to reduce the need to travel, especially by car. PPG13 also states that the car will continue to have an important part to play and for some journeys it will remain the only real option for travel. The advice in paragraphs 12 to 17 of PPG13, which related specifically to housing, has been cancelled.
17. *Manual for Streets* at paragraph 8.3.1 states that the Government's policy on residential car-parking provision is set out in Planning Policy Statement 3: *Housing* (PPS3). PPS3 states at paragraph 51 that Local Planning Authorities should, with stakeholders and communities, develop residential parking policies for their areas, taking account of expected levels of car ownership, the importance of promoting good design and the need to use land efficiently.
18. SPGBH4 would seem to pre-date the advice in PPS3. Moreover, although they are maximum standards, the Council's parking standards outside control zones refer only to 'Houses with up to 3 beds'. The proposed house would have 7 bedrooms, but there would seem to be no published standard for houses with 4 or more bedrooms. Thus, LP Policy TR19, PPG13, and SPGBH4, are not particularly relevant to this appeal.
19. There is a double garage on the site at present, but it would be demolished to make way for the access to the site. At the hearing it was confirmed that a maximum of one space per dwelling plus one car space per 2 dwellings for visitors would be required, so a maximum of 1½ spaces would be acceptable. It was also confirmed that the Council's concern is that the proposed double garage would encourage the use of more than one car, and that the amount of hard surfacing, and, therefore, the efficient use of land, was not at issue.
20. It would not be unexpected for, say, those people occupying the 2-bedroom annex to have their own vehicle. So, it would not be unreasonable in this case to provide 2 spaces, especially as the amount of further parking which could be provided in the open on the appeal site was not a concern of the Council. Moreover, leaving a second car in the open, on private land or in the street, would not take the opportunity to minimise the opportunities for crime to take place, which is a relevant design consideration in LP Policy QD2.
21. Also, as there is a bus stop close by and mainly unrestricted parking in the nearby streets it could not be argued that the omission of the second garage parking space would discourage the occupiers of the dwelling from driving in preference to making more sustainable transport choices. The availability of a secure and covered parking space at only one end of a journey would be only one of several considerations in deciding how to travel. So, I do not consider that providing 2 car parking spaces within the garage would harm sustainability with regard to car parking. As there are insufficient details of the double

garage on the application drawings it would be necessary to impose a condition for its details to be approved.

22. I consider that the proposal would not harm sustainability with regard to car parking. It would satisfy LP Policy TR1.

Other matters

23. I have had regard to the permitted alterations and extensions to the existing dwelling which would result in a dwelling with a similar appearance and similar accommodation to the appeal proposal, albeit in a different position on the appeal site. The existing double garage would also be retained and this does not contribute in a positive way to the street scene in Longhill Road.

24. I have also had regard to the planning permissions granted for the redevelopment of the site at 128 Longhill Road. Whilst the more recent proposal there would include 3-storey dwellings, there is development on both sides of Longhill Road, albeit that on one side it is reached from Woodland Walk, so it is not particularly relevant to the appeal scheme. I am also aware that some adjoining occupiers have written in support of the proposal.

Conditions

25. I have carefully considered the Council's suggested conditions and the others which were raised at the hearing in the light of the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*. The conditions to control additional windows in the north-west and south-east elevations, and to prevent the use of the flat-roofed rear entrance canopy as a balcony or roof garden, are reasonable and necessary to protect the living conditions of the neighbouring occupiers. The conditions to control external materials, including their colours, and the details of the double garage are reasonable and necessary to protect the character and appearance of the area. The condition to remove permitted development rights for additional garages is reasonable in the interests of sustainability. The condition for refuse and recycling facilities is reasonable in the interests of sustainability and the living conditions of the occupiers and their neighbours. The condition for levels information to be provided is necessary to protect the character and appearance of the surrounding area and the living conditions of the neighbouring occupiers.
26. The condition to control the occupation of the annex which was raised at the hearing is necessary to prevent the subdivision of the house into 2 single dwelling houses. I have also imposed a condition to ensure that the existing dwelling is demolished before the construction of the new dwelling is commenced as it is in accordance with the appellants' design and access and waste minimisation statements which were submitted with the application, in the interests of sustainability, and to ensure that the demolition of the existing dwelling, which is part of the description of the development, would be implemented. It would not normally be necessary to impose a landscape condition for a private garden, but the Council's arboricultural officer has raised concerns about the trees on and off the site which, whilst not protected, are important to the character and appearance of the area. I have therefore re-worded and imposed the suggested condition for hard and soft landscaping.

27. No exceptional circumstances were put to me to warrant withdrawing permitted development rights for the extension, enlargement or other alteration of the building, so I have not imposed that condition. Because obscured glazing would not be necessary in the windows facing the sides of the site, I have similarly not imposed that condition.

Conclusions

28. For the reasons given above and having regard to all other matters raised, the appeal should succeed.

Joanna C Reid

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Tony McGilligan	Appellant, 106 Longhill Road, Ovingdean, Brighton, BN2 7BD.
Tracy McGilligan	Appellant, 106 Longhill Road, Ovingdean, Brighton, BN2 7BD.
David D Collins DipTP MRTPI	Appellants' agent, Collins Planning Services Limited, 4 Yeomans, Ringmer, East Sussex, BN8 5EL.
Lap Chan RIBA	Appellants' architect, Morgan Carn Architects, 79 Stanford Avenue, Brighton, BN1 6FA.

FOR THE LOCAL PLANNING AUTHORITY:

Ray Hill	Senior Planning Officer, Brighton & Hove City Council.
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DOCUMENTS

- 1 The letter of notification of the hearing and the list of persons notified.
- 2 The appellants' agent's letter to The Planning Inspectorate dated 10 July 2008.
- 3/1 Letter from John and Avril Simmonds dated 21 November 2008, and
3/2 letter from Mr & Mrs Gouhari dated 25 November 2008, put in by the appellants.
- 4 Details and drawings of planning permission ref BH2003/03097/FP, dated 19 November 2003, for the "Two storey side extension on the north-west elevation" at 104 Longhill Road, put in by the appellants.
- 5 Aerial photograph of the appeal site, put in by the appellants.
- 6/1 Details and drawings for planning permissions ref BH2006/01292, and
6/2 BH2008/03328, for developments at 128 Longhill Road, put in by the appellants.