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## Appeal Decision

Site visit made on 6 February 2018

by **S J Buckingham BA (Hons) DipTP MSc MRTPI FSA**

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

Decision date: 23<sup>rd</sup> February 2018

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**Appeal Ref: APP/Q1445/W/17/3188843**

**4 Canning Street, Brighton, East Sussex BN2 0EF**

- 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 Miss Alice Hackett against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/02000, dated 30 April 2017, was refused by notice dated 22 August 2017.
  - The development proposed is new door opening onto new timber deck with handrail on existing rear extension, to match adjacent balcony.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered from that given on the application form and neither party has provided written confirmation that such a change was agreed. I have however used the one given by the Council on its Decision Notice as it is clearer.

### Main Issues

3. The main issues are:-
  - whether the development would preserve the special character and appearance of the College Conservation Area, and the effect on the significance of the designated heritage asset; and
  - the effect on the living conditions of neighbouring occupiers in terms of overlooking, noise and disturbance.

### Reasons

#### *Conservation Area*

4. No. 14 Canning Street is a modest, nineteenth century terraced house. Due to the fall of the land it is of two storeys at the front and four to the rear. Although I was not given access to the house, I was able to view the rear of the appeal dwelling and others around it from an open car parking area to the rear of St Matthews Court, a block of flats on College Terrace and Sutherland Road.
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5. No detailed assessment of the character of the College Conservation Area has been put before me. However, my observation was that much of the significance of this part of the conservation area resides in the traditionally designed and constructed terraces, with visual harmony arising from the rhythmic repetition of simple elements such as doors and windows. The houses are relatively plain to the rear, but generally consistent in design, having largely flat elevations, although some feature modest rear extensions with monopitch or flat roofs. While the appellant has indicated that there are other balconies in the vicinity, I noted only a small number of traditional metal fire escape balconies on which plants or items of furniture had been placed.
6. The proposed roof terrace would be on at second floor level to the rear of the house, situated on top of an existing, flat-roofed two storey rear extension, adjoining a similar, larger terrace on the adjoining dwelling. The Council has advised that the latter is there as a result of being a lawful development.
7. Creation of the proposed terrace would include raising the parapet wall, creation of an access door and erection of railings on the parapet. It has been suggested that these elements would match those on the neighbouring roof terrace, although limited details have been supplied.
8. The appeal proposal would introduce new features which would create an uncharacteristic element interrupting the generally consistent appearance of the rear elevation of the terrace. It would be a very visible and intrusive element in that setting, an effect exacerbated by its proximity to the existing terrace, and would therefore fail to preserve the character and appearance of the conservation area, and would be harmful to its significance.
9. Paragraph 132 of the Framework is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. I conclude that, as the proposed terrace would be a single discordant feature, for the purposes of this paragraph the harm would be less than substantial.
10. In these circumstances, Paragraph 134 of the Framework advises us, this less than substantial harm should be weighed against the public benefits of the proposal. No potential public benefit of the proposal has been put before me, and I have identified none. I conclude therefore that the harm would not be justified.
11. The proposal would also fail to comply with policy QD14 of the LP, which seeks also to resist alterations to existing buildings which are not well designed in relation to the property itself and to the surrounding area. It would also conflict with policy HE6 of the LP which seeks development within conservation areas which preserve or enhance their character or appearance. Policy CP15 of the Brighton and Hove City Plan Part One 2016 seeks development which conserves and enhances the city's historic environment, and the proposal would fail to comply with this.

#### *Living Conditions*

12. The houses in Canning Street back onto a similar terrace on College Terrace. The two are separated by their small rear gardens and a central boundary wall.

13. As a result of its elevated position, the proposed roof terrace would enable overlooking of the rear gardens of adjacent houses. As it would not project far from the rear of the building, it would not be likely to allow views backwards into the windows of neighbouring properties to either side, but would provide closer views of windows on houses facing it to the rear.
14. Although there is already a degree of mutual overlooking between the terraced properties and gardens, which is not unusual in an urban setting, because of the close spacing of the terraces and small size of the gardens, this appears particularly pronounced. The additional effect in relation to gardens and windows to the rear would therefore be harmful in terms of overlooking and of the consequent effects on the privacy and perceived privacy of the occupiers of adjacent houses to the sides and rear.
15. While the appellant has indicated that provision of screening would have the potential to mitigate this effect, no details have been supplied, and it does not appear likely to me that this could be achieved without significantly exacerbating the visual harm that I have identified above.
16. The proposed terrace would be small, and unlikely to accommodate a large number of people, and any activity it would encourage would be similar in character to the noise from a garden or open window. However it would be occurring closer to upper floor windows of adjacent properties. I conclude that it would therefore cause some harm in terms of noise and disturbance.
17. The development would thus fail to comply with the provisions of saved policies QD14 and QD27 of the Brighton and Hove Local Plan 2005 (LP) in relation to avoiding development which would result in significant loss of privacy or cause material nuisance and loss of amenity to the occupiers of neighbouring properties.

### **Conclusion**

18. For the reasons given above therefore, I conclude that the appeal should be dismissed.

*S J Buckingham*

INSPECTOR

