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Decision by Gordon S Reid, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-230-2288
- Site address: 3F2, 17 Bruntsfield Gardens, Edinburgh, EH10 4DX
- Appeal by: Mr T Hyde against the decision by The City of Edinburgh Council
- Application for planning permission 19/00792/FUL dated 15 February 2019 refused by notice dated 2 July 2019
- The development proposed: creation of new flatted dwelling within attic space and alter existing third floor flat. Proposed new access from existing communal stairwell (as amended)
- Application drawings: site location plan (drawing OS(00)001), existing plans (drawing GA(EX)001) and proposed plans (drawing GA(00)001 revision B)
- Date of site visit by Reporter: 7 November 2019

Date of appeal decision: 5 December 2019

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## Decision

I allow the appeal and grant planning permission. Attention is drawn to the three advisory notes at the end of the notice.

## Preliminary matters

(i) The appellant has made a claim for expenses. I have issued a separate decision on this claim.

(ii) The appellant has queried whether the proposed rooflights constitute development. I confirm that the installation of the five rooflights in the front and rear elevation of the flatted property would constitute development in terms of section 26(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).

## Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. As the appeal site lies within the Marchmont, Meadows and Bruntsfield Conservation Area, in accordance with section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended), special attention must be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.



2. Having regard to the provisions of the development plan the main issues in this appeal are whether the proposed flat is of an acceptable standard and location, the appropriateness of the design, materials and positioning of the rooflights, the impact on the character and appearance of the conservation area, the impact on residential amenity and the impact on road safety.
3. The development plan consists of the approved SESplan Strategic Development Plan (2013) and the adopted Edinburgh Local Development Plan (2016). I find that there are no strategic development plan policies of relevance to this appeal. However, the following documents are relevant: the Scottish Government's Scottish Planning Policy (2014) and the council's non-statutory guidance contained in: the Edinburgh Design Guidance (2017); the Listed Buildings and Conservation Area Guidance (2019); and the Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal (2006).
4. The appeal site is located on the west side of Bruntsfield Gardens to the south of the junction with Bruntsfield Place. The property is a four storey stone built traditional tenement with pitched roof finished in slate. There is a small private garden to the front and large communal garden to the rear. The surrounding area is primarily residential with retail and commercial uses to the north within the Morningside and Bruntsfield town centre.
5. The proposal is to create a two bedroom flat over two levels utilising a bedroom from the existing flat and the vacant attic space above. Access would be from a new doorway formed on the landing in the communal stairwell. The new accommodation would consist of a small bedroom and staircase on the third floor entrance level, with a lounge, kitchen, bathroom and bedroom formed in the attic space. The existing flat is to be altered to maintain it as a three bedroomed flat and these works do not form part of my considerations at this appeal. Five conservation style rooflights are to be installed in the existing sloping slate roof with three in the front (east) elevation and two in the rear (west) elevation.
6. Local development plan Policy Hou1 Housing Development seeks to deliver the identified land supply for housing and relevant infrastructure over the plan period. Only criterion d) is of relevance to the proposed development which supports additional housing on suitable sites in the urban area, provided they are compatible with other policies in the plan. The proposed development is for the formation of a new flat in an existing residential tenement within the urban area and, as detailed below, is acceptable in terms of the other relevant policies of the local development plan. I find that it complies with the provisions of Policy Hou 1.
7. Local development plan Policy Hou 3 Private Green Space in Housing Developments seeks to ensure that there is an appropriate level of greenspace provision for new housing developments. For new flatted accommodation a standard of 10 square metres per flat is sought. Exceptions are considered justifiable if there are good reasons why the level of space cannot be provided. The proposed flat is to be formed within an existing tenement property and there is no scope to add additional private green space. However, the property already has a generous area of communal open space to the rear which could adequately serve new and existing residents and is also located within close proximity to the public open space at Bruntsfield Links. I consider that there are justifiable reasons for not providing additional greenspace in this instance and find that the proposal complies with Policy Hou 3.

8. Local development plan Policy Hou 4 Housing Density - seeks to promote an appropriate density of development, taking account of site characteristics and location. The policy requires that regard is given to four criteria. Criterion a) relates to the characteristic of the proposal and those of the surrounding area. The proposal is for a two bedroomed flat within an existing tenement in the urban area, surrounded by tenement properties in residential use. The proposed flat would be a compatible use and in keeping with the characteristics of the existing building and surrounding area and would meet the requirements of criterion a).

9. Criterion b) seeks the creation of an attractive residential environment and the safeguarding of living conditions within the development. The Edinburgh Design Guidance sets out the standards for new residential development in terms of flat sizes, daylighting and open space. In terms of size the proposed two-bedroomed flat at 73 square metres would be in excess of the minimum floorspace standard of 66 square metres (the existing three-bedroomed flat at 88 square metres would be in excess of the minimum floorspace standard of 81 square metres). The proposed flat would have dual aspect with rooflights on the east and west elevation. This would provide adequate natural light into all of the main rooms. I have already found above that the existing communal space is adequate to serve the proposed flat. In terms of safeguarding living conditions as the proposal is for a residential use I consider that it would not introduce any disturbance that would detrimentally affect the amenity of existing residents. The proposed flat would meet the requirements of criterion b).

10. Criterion c) seeks to ensure there is accessibility to public transport and criterion d) seeks to encourage and support the provision of local facilities necessary to high quality urban living. The appeal property is close to the Morningside and Bruntsfield town centre and would benefit from the existing full range of shops, services, public transport facilities and active travel routes. Residents of the proposed flat would therefore have easy access to nearby public transport facilities and would also help to support the local shops and services in the town centre. The proposed flat would meet the requirements of criteria c) and d). I find that proposed development would meet all four criteria and be in accordance with Policy Hou 4 and the Edinburgh Design Guidance.

11. Local development plan Policy Des 5 sets out the requirements for amenity in the design of new buildings to meet the needs of users and occupiers, with consideration given to impacts on neighbouring properties. It sets out five criteria of which only a) and e) are relevant to the appeal proposals. Criterion a) is the main consideration and seeks to ensure that the amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook. The works to form the flat, apart from the rooflights, would be internal to the existing building with only the new entrance door viewed from the communal landing of the internal stairwell. I conclude below that the proposed rooflights are of an acceptable design and would not result in an unreasonable loss of privacy for neighbours. In addition, as the proposal is for a two bedroom flat in a residential tenement I consider that there would be no unreasonable disturbance from noise. I find that there would be no adverse effect on the amenity of neighbours in the existing property from the formation the proposed flat.

12. In terms of the amenity for future occupiers the flat is of an appropriate size, has a dual aspect and is on the top floor and attic of the tenement. This would provide good levels of daylight, sunlight, privacy and immediate outlook. I find that the proposed flat meets the requirements of criterion a). Criterion e) seeks the sensitive integration of related services including refuse/recycling facilities, cycle storage, plant and services. As the proposed development would utilise existing services in the building and no additional cycle storage is required in this instance, I find that the proposal is acceptable in terms of criterion e). The proposed development is in accordance with Policy Des 5.

13. Local development plan Policy Des 12 Alterations and Extensions seeks to ensure that the impact of a proposal on the appearance and character of the existing building and street scene must be satisfactory. The policy sets out three criteria that require to be met. Criterion a) advises that proposals in their design and form, choice of materials and positioning be compatible with the character of the existing building. As already stated most of the works are internal and raise no issues of concern. The rooflights would be external and are all of a conservation style; would lie flush within the roof-plane; and be finished in black with a central glazing bar. The existing building is a four storey Victorian tenement with sloping roof finished in natural slate. I find that the proposed rooflights given their style, materials and positioning are compatible with the appearance of the existing property. The proposed development meets the requirements of criterion a).

14. Criterion b) advises that proposals should not result in an unreasonable loss of privacy or natural light to neighbouring properties. The five rooflights would introduce some potential for overlooking of the windows of surrounding properties to both the east and west. I observed that the windows of most of the surrounding properties in Bruntsfield Gardens and Bruntsfield Place are already directly overlooked from the windows of the existing tenement flats to the east and west. Given the position of the new rooflights they would be set slightly further back than the existing windows in the tenement and the views from them would be more acute and restricted due to the angle of the roof and the position of the existing chimney breasts. I find that whilst the introduction of the five rooflights would result in some additional overlooking, over that which exists at present, it would not constitute an unreasonable loss of privacy to surrounding neighbours. As only the rooflights would be external parts of the proposed development there would be no loss of natural light to neighbours. The proposed development meets the requirements of criterion b).

15. Criterion c) seeks to ensure that proposed developments would not be detrimental to neighbourhood amenity and character. I have concluded above that the proposed development is acceptable in terms of residential amenity and that the rooflights are of an appropriate style, materials and position. Local residents raised concerns about the adverse visual impact of the proposed rooflights on the appearance of the building and surrounding area. I observed from my site visit that given the position of the rooflights they would not be visible from the street to the front or the communal garden to the rear of the property. The only public vantage point where the rooflights would be visible at street level would be in the vicinity of the properties at 46-48 Bruntsfield Gardens. I also observed that there were existing conservation style rooflights in the property at 29 Bruntsfield Gardens. These were smaller in size but more directly visible given the location opposite the junction in Bruntsfield Gardens. Local residents submitted photographs showing that the rooflights would be visible from views within the some of the existing flats on the east side of

Bruntsfield Gardens and from some of the windows and stairwell windows of the flats in Bruntsfield Place to the west. I acknowledge that these demonstrate that the rooflights would be more visible from some private vantage points. However, I have already concluded that the design, materials and positioning of the rooflights are compatible with the character of the existing building. In addition, only those on the front elevation would be visible from some limited public viewpoints in the surrounding area. I find that the proposed rooflights would not be detrimental in terms of the visual impact on neighbouring amenity or character. I find that the proposed development is in accordance with criterion c) and therefore overall with the provisions of Policy Des 12.

16. Local development plan Policy Env 6 Conservations Areas (Development) and the council's guidance on Listed Buildings and Conservation Areas requires new development within conservation areas to preserve or enhance the special character or appearance of the conservation area, be consistent with the conservation area character appraisal and require a high standard of design and materials appropriate to the historic environment. The Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal advises that the essential character is of an urban form comprising Victorian tenement perimeter blocks of a uniform height, massing and use of stone and slated roofs with most having small front gardens to the street. In addition, the Scottish Government's Scottish Planning Policy advises that proposals that do no harm to the character or appearance of the area should be treated as preserving it. I have already concluded that the design, materials and positioning are of a satisfactory standard for the existing building and given that they include the conservation area style of rooflight they would be of an acceptable standard within a conservation area. I have also found that the rooflights would not be highly visible from the surrounding streets. I have also acknowledged that there would be some views from within existing properties. I conclude that the proposed rooflights would do no harm to the appearance of the area and as a result would preserve the character and appearance of the conservation area. I find that the proposed development is in accordance with the provisions of Policy Env 6, the guidance on Listed Buildings and Conservation Areas and the advice in Scottish Planning Policy.

17. Local development plan Policy Tra 2 – Private Car Parking and the Edinburgh Design Guide set out parking requirements for new developments including the factors to be considered when assessing whether a lower parking provision is appropriate. These include the accessibility to public transport stops on well served routes and to shops, schools and centres of employment by foot, cycle and public transport. The parking standards would seek the provision of one parking space for the proposed development. No new parking is proposed as part of the development as there is no additional space to accommodate it. The council roads authority advised that zero parking provision for this development was acceptable under the council's parking standards as it was located within the extend controlled parking zone where the residents would be eligible for a residential parking permit. In addition, the council advised that the proposals did not raise any concerns in terms of any impact on existing parking provision. I find that given the size of the flat, the lack of space to provide additional car parking and its close proximity to the services and existing public transport routes within the Morningside and Bruntsfield town centre it would comply with the design guidance in terms of lower parking standards. In addition, I do not consider that it would have any detrimental impact on the amenity of neighbours through additional on street parking demand or traffic safety issues. I consider that the proposal accords with the provisions of Policy Tra 2.

18. Local development plan Policy Tra 3 seeks to ensure that cycle parking within new housing developments is in accordance with the standards set out in the Edinburgh Design Guidance. The council have acknowledged the difficulty in achieving cycle parking in tenement properties. No cycle parking is provided as part of the proposed development. As the new flat is located within the attic space of an existing four storey tenement I find that it is not practical to provide private cycle parking in this instance. There was no objection from the council on this matter. I find that the proposal is acceptable in terms of Policy Tra 3.

19. There were concerns raised by neighbours to the proposed development in relation to the impact on the conservation area, impact on parking and traffic safety, inadequate living conditions for future occupiers, the impact on the amenity of neighbours within the tenement and the impact on local services. I have taken these concerns into account in my assessment of the appeal proposal. Concerns were also raised relating to the impact on neighbours from the disposal of domestic waste from the new flat. I note that the council have advised that they can provide satisfactory collection of domestic waste in line with the service already provided to the existing residents in the property. I do not find that the concerns raised in the representations from neighbours are sufficient to warrant dismissal of this appeal in this instance.

20. I find, that the proposed flat is of an acceptable standard and location and would not have a detrimental impact on residential amenity or road safety. In addition, I find that the proposed rooflights are of an appropriate design, materials and position and would not adversely impact the appearance of the property and surrounding area. I conclude that the proposed development would be in accordance overall with the relevant provisions of the development plan. There are no material considerations which would still justify refusing to grant planning permission. Furthermore, the proposed development would preserve the character and appearance of the Marchmont, Meadows and Bruntsfield Conservation Area. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

*Gordon S Reid*  
Reporter

### Advisory notes

- 1. The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).