

Notice of Review: 29 Waverley Road, Bonnyrigg

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use of a flatted dwellinghouse to house of multiple occupation (HMO) at 29 Waverley Road, Bonnyrigg.

2 Background

- 2.1 Planning application 17/00440/DPP for the change of use of a flatted dwellinghouse to house of multiple occupation at 29 Waverley Road, Bonnyrigg was refused planning permission on 31 July 2017; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, issued on 31 July 2017 (Appendix D); and
 - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled a site visit for Monday 20 November 2017; and
 - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that two consultation responses and one representation have been received. As part of the review process the interested parties were notified of the review. No additional comments have been received. Comments can be viewed online on the electronic planning application case file via www.midlothian.gov.uk
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 It is considered that no conditions would be required if the LRB is minded to grant planning permission. The reasons for refusing the application relate to its potential impact on amenity and it is considered that this cannot be mitigated by conditions if the LRB are minded to support the review on the basis that the proposed development is acceptable.

6 Recommendations

- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

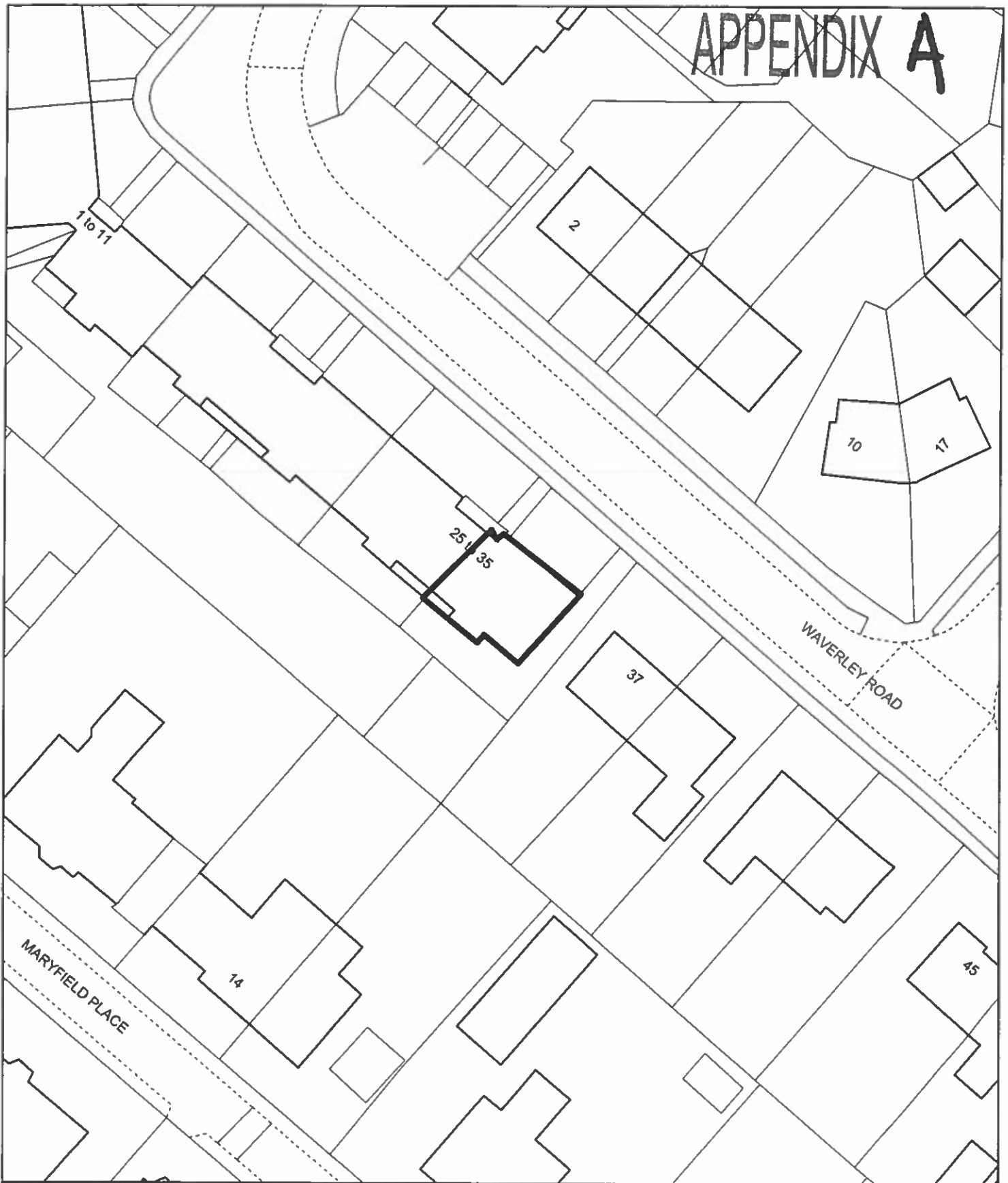
Date: 14 November 2017

Report Contact: Peter Arnsdorf, Planning Manager (LRB Advisor)
peter.arnsdorf@midlothian.gov.uk

Tel No: 0131 271 3310

Background Papers: Planning application 17/00440/DPP is available for inspection online.

APPENDIX A



**Education, Economy
& Communities**
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29 Waverley Road, Bonnyrigg

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File No. 17/00440/DPP

Scale: 1:500

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Midlothian



Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: planning-applications@midlothian.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100066793-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number: You must enter a Building Name or Number, or both: *

First Name: * Building Name:

Last Name: * Building Number:

Telephone Number: * Address 1 (Street): *

Extension Number: Address 2:

Mobile Number: Town/City: *

Fax Number: Country: *

Postcode: *

Email Address: *

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="C/O Agent"/>
First Name: *	<input type="text" value="Luigi"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Pia"/>	Address 1 (Street): *	<input type="text" value="C/O Agent"/>
Company/Organisation:	<input type="text"/>	Address 2:	<input type="text" value="C/O Agent"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="C/O Agent"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="TD1 1NU"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="29 WAVERLEY ROAD"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="BONNYRIGG"/>
Post Code:	<input type="text" value="EH19 3BS"/>

Please identify/describe the location of the site or sites

Northings	<input type="text" value="665289"/>	Easting	<input type="text" value="331207"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of use from flatted dwelling to house in multiple occupation

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see Appeal Statement for full Grounds of Appeal.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Appeal Statement Drawing S01 Drawing BW01 Parking Capacity Review Decision Notice Planning Application Form

Application Details

Please provide details of the application and decision.

What is the application reference number? *

17/00440/DPP

What date was the application submitted to the planning authority? *

05/06/2017

What date was the decision issued by the planning authority? *

31/07/2017

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Ferguson Planning Tim Ferguson

Declaration Date: 20/09/2017

LOCAL REVIEW BODY – STATEMENT OF APPEAL
(17/00440/DPP)

**CHANGE OF USE FROM FLATTED DWELLING TO HOUSE
IN MULTIPLE OCCUPATION**

29 WAVERLEY ROAD BONNYRIGG EH19 3BS

CLIENT: MR LUIGI PIA

SEPTEMBER 2017



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FERGUSON PLANNING



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- Appendix 4 – HMO Properties

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Date of Issue: September 2017



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1. INTRODUCTION

- 1.1 This statement of appeal has been prepared by Ferguson Planning on behalf of Mr Luigi Pa who wish to change the use of an existing flatted dwelling to a house in multiple occupation 29 Waverley Road, Bonnyrigg.
- 1.2 The related planning application (17/00440/DPP) was lodged on 5th June 2017 with a decision, via delegated powers, to refuse the application received on 31st July 2017. As such, we now seek to appeal the decision via the Local Review Body.
- 1.3 This statement responds to the reason for refusal and, where appropriate, cross referring to the delegated officer's report, Local Development Plan and material considerations. The relevant appeal documentation is listed within Appendix 1.



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2. REASON FOR REFUSAL

2.1 Within the decision notice the reason for refusal was that:

1. *The use of the flat as a house in multiple occupation for 5 residents will put additional pressure on the limited number of existing on-street parking spaces and may lead to inconsiderate or illegal parking to the detriment of road safety. This pressure for parking spaces will have a significant detrimental impact on the character and amenity of the surrounding area and is therefore contrary to policy RP20 of the adopted Midlothian Local Plan.*

Representations

- 2.2 There was a single representation from a member of the public with two consultee responses received from Environmental Health and the Roads Officer.
- 2.3 The Council's Roads Officer raised road safety concerns over the impact of the proposal on the surrounding road network. It was noted that the majority of properties on Waverly Road and the surrounding streets do not have private driveways and rely on the limited number of on-street parking spaces for residential and visitor parking. It was felt that the proposed change of use would result in an increase in the number of residents and visitors looking for on-street parking in this area and was considered that this situation would place additional pressure on the limited number of on-street spaces available and may lead to inconsiderate or illegal parking to the detriment of road safety.
- 2.4 Environmental Health had no objection to the proposal. It was noted that the proposed layout would provide suitable adequate accommodation for a maximum of 5 persons. It was acknowledged that the number of residents that occupy the property is not controlled by the Planning Authority and these matters would be addressed by licensing.

Planning Officers Observations

- 2.5 The following observations were raised within the Planning Officer's Report of Handling which briefly summarises the Council's position on the determination of the original application;

The proposal seeks to convert an existing flat into a house of multiple occupations within a residential area. The application dwellinghouse is located in close proximity to public transport links which may reduce the requirement for a car. However, the site is not located within a town centre location, it is located within a residential area and there is limited parking provision available.

The road safety manager noted concerns in relation to the proposed change of use and in terms of the impact upon the parking and road safety. It was identified that the majority of properties

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on Waverly Road and the surrounding streets do not have private driveways and rely on the limited number of on-street parking spaces for residential and visitor parking. The proposed change of use would place additional pressure on the current limited on-street parking spaces.

- 2.6 The Council's assertion that there is limited parking available is questioned as it appears to be based on anecdotal speculation with no basis for this conclusion. Indeed, this comment is rather contradictory as it is accepted that the site is in close proximity to the existing public transport network and within easy walking distance of the town centre, yet as it is located within a residential area the officer summarises that there is limited parking provision available.
- 2.7 It is accepted that town centre locations generally have a lower provision of parking available and as such residents would be expected to utilise public transport and nearby employment, services and facilities which can be accessed by non-car modes of transport. However, the Council's acknowledgement that the site is within walking distance of the town centre and close proximity to public transport facilities should highlight that the subject site could also benefit from the amenities offered by town centre living.
- 2.8 The site's location is within an existing residential area which offers on and off street parking provision. It is considered that should there be a significant issue with parking provision, the Council have the ability to implement a controlled parking zone which would introduce a parking permit scheme. The fact that the Council have not considered a CPZ in this location indicates that there is not a substantial parking issue in the vicinity of the site.
- 2.9 We would strongly dispute the comment that the majority of properties in Waverley Road and its vicinity do not have private driveways and therefore rely on on-street parking spaces. It is clearly evident that the mix of dwelling types means that there is a mix of on and off street parking provision. Clearly, the majority of semi-detached dwellings in the area benefit from a variety of driveway types, including driveways running up the side of properties, converted front gardens to incorporate private driveways and also a number of garages, an example of which can be found opposite the site. It is also recognised a common feature of the three storey flatted properties is the availability of at least one parking space for residents, some of which are designated for disabled parking but this is not the overriding parking type.
- 2.10 Whilst no off street parking spaces would be provided for the proposed development it is strongly contested that there would be additional pressure on the current parking provision, substantial enough to warrant refusal.

The proposed house of multiple occupation will have sufficient levels of daylight and an adequate outlook that is not encroached on by neighbouring properties. There is a small amount of garden ground available to the rear of the property. It is also noted that the amount of private garden ground available at neighbouring properties within the area are of a similar size. Therefore, in these circumstances the proposed change of use is acceptable in terms of residential amenity.

- 2.11 The Council accept that there will be no detrimental impact on residential amenity and the



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proposal is considered to be appropriate in this regard.

While it is acknowledged that a 3 bedroom flat could potentially be occupied by 2 parents and 2 adult children, all with their own vehicles and potentially additional work vehicles, this would be an uncommon scenario. The most common scenario would be for a property of this size to be the base for 1 or 2 cars. The current on-street parking would need to accommodate this.

Occupation of the building by 5 adults living not as a family unit raises the possibility of 5 vehicles being based at the property. This number of vehicles could not be accommodated within the application site. This number of vehicles would put significant additional pressure on the demand for on-street parking spaces. A high demand for on-street parking can have a significant detrimental impact on the amenity of local residents, often leading to arguments and inconsiderate parking.

- 2.12 Midlothian Council Parking Standards were adopted in 2014 which determines that by limiting accessible car parking; walking, cycling and public transport use can be encouraged, however a balance has to be struck by this and road safety concerns caused by migration of overflow parking into surrounding areas. Table 1 of the Standards, shown below, determines that a Private 3 bedroom property should provide 2 residents parking spaces along with 0.5 visitor spaces. This does not make a distinction between property tenure and an owner-occupied dwelling would be required to provide the same level of parking provision as a rented property. The exception would be for socially rented properties which are obliged to provide only 1.5 communal spaces.

Housing	Number of Bedrooms							
	1		2		3		4 or more	
Private	residents	visitors	residents	visitors	residents	visitors	residents	visitors
	1.00	0.50	1.00	0.50	2.00	0.50	2.00	0.50
Social	1		2		3		4 or more	
	communal		communal		communal		communal	
	1.00		1.00		1.50		1.50	

- 2.13 The Council cannot therefore, feasibly argue that the proposed use of the property would encourage any more car use than is currently experienced. The standards also do not distinguish between residential locations and would require the same level of parking provision within a town centre as would be anticipated in a location further from the centre. However, in light of sustainability provisions set out at both the national and local planning policy levels, the proximity of the site should represent a sustainable option for this type of development which would encourage the use of non-car modes of transport.

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With regards to the maximum number of occupants, Environmental Health advised that accommodation would be suitable for a maximum of five people. Had the planning authority been minded to support the proposed change of use then it is noted that the maximum number of occupants would be restricted by licensing. With regards to concerns relating to anti-social behaviour and disputes, the possibility of anti-social behaviour by future occupants of a building is something that could occur irrespective of the ownership and/or occupancy arrangement of a building; it is not a material planning consideration.

- 2.14 We would agree with the Council's position insofar as the maximum number of people to be accommodated in the property would be five. This can be controlled via a suitably worded condition and would also be agreed through necessary licensing requirements.



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3. PLANNING CONTEXT

- 3.1 The site is situated within an existing residential area comprising of both flatted dwellings and semi detached properties.
- 3.2 The property, subject to this proposal, is located on the second floor of a three storey flatted building. It is situated at the end of a terrace of properties with a two-storey semi detached building to the south.
- 3.3 The subject property benefits from a small enclosed area of shared garden ground to the rear.

Figure 1: View of Property



Source: Google Earth

- 3.4 The site is located approximately 300m to the north east of Bonnyrigg town centre which is approximately a 10 minute walk. Sherwood Industrial Estate is approximately 180m to the south, offering employment opportunities. The closest bus stops are located on Lothian Street approximately 200m, equating to a convenient two and a half minute walk, to the North of the

site, offering regular public transport options to Woodburn, Gorebridge, Penicuik, Dalkeith, Temple and Edinburgh via the services 39, 40, 49, R1, R2 and R5.

Related Planning Policy

3.5 Within the Report of Handling the Planning Officer has concentrated their determination on Policy RP20: Development within the Built Up Area, of the adopted Mid Lothian Local Plan:

3.6 Policy RP20 states:

Development will not be permitted within existing and future built-up areas, and in particular within residential areas, where it is likely to detract materially from the existing character or amenity of the area.

3.7 The Midlothian Local Development Plan (MLDP) was submitted to the Scottish Ministers for examination on 09 September 2016. The Examination Report was received in July 2017 with formal adoption anticipated for late 2017. As this plan is at an advanced stage of preparation it represents the settled view of the Council and was therefore a material consideration of significant weight in the assessment of this application. The following policy was relevant to this application and generally reiterates the provisions of RP20, although was not referred to within the reason for refusal:

3.8 Policy DEV2: Development within the Built-up Area states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.

Material Considerations

3.9 Other material considerations that should be taken into account in the determination of this proposal include:

Mid Lothian Local Plan Policy: DP2 DEVELOPMENT GUIDELINES

3.10 This policy sets out the Development Guidelines that are to be applied for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings, although it should be noted that there are no direct provisions for the material change of use of a dwelling for conversion to a HMO.

3.11 The proposal seeks the conversion of a dwelling for a use that is still residential in nature. The HMO will therefore be in keeping with the existing character of the area and would not be contrary to the general requirements of this policy.



- 3.12 Part 6 Accessibility and Parking Provision should be considered and it states that proposals for new development will be required to:
- a) *incorporate measures to enable / encourage the use of alternative transport modes to the private car;*
 - b) *make provision for roads, lighting and parking to satisfy the Council's standards (refer to Standards for Development Roads: A Guide to the Design and Construction of Roads for Adoption).*
- 3.13 The area is built up and in an area within convenient walking distance of the town centre which lends itself to higher density living and one which contains a mix of residential types. Amenity space for each dwelling is also accepted as being minimal in terms of necessity and as a result of the existing historic urban fabric.
- 3.14 The site is sustainably located and can avail of local services and public transport into the surrounding settlements and Edinburgh city centre. Significant recreation and open space provision is located within short walking distance thus providing ample nearby amenity space.
- 3.15 The location therefore encourages the use of alternative forms of transport to the private car.
- 3.16 Provision 5c Space between Houses requires that flatted properties should be provided with a communal private open space conveniently located for the residents. The existing garden ground can be utilised as part of this proposal and is considered to be sufficient for the use of the proposed HMO.

Scottish Planning Policy

- 3.17 The SPP introduces a presumption in favour of sustainable development. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place.
- 3.18 Paragraph 33 determines that where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration. Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP.
- 3.19 Planning should take every opportunity to create high quality places by taking a design-led approach. This means taking a holistic approach that responds to and enhances the existing place while balancing the costs and benefits of potential opportunities over the long term.



- 3.20 One of the other key policy approaches is that planning should direct the right development to the right place.
- 3.21 Paragraph 40 requires spatial strategies within development plans to promote a sustainable pattern of development appropriate to the area. To do this decisions should be guided by the following policy principles:
- optimising the use of existing resource capacities, particularly by co-ordinating housing and business development with infrastructure investment including transport, education facilities, water and drainage, energy, heat networks and digital infrastructure;
 - using land within or adjacent to settlements for a mix of uses. This will also support the creation of more compact, higher density, accessible and more vibrant cores;
 - considering the re-use or re-development of brownfield land before new development takes place on greenfield sites;
 - considering whether the permanent, temporary or advanced greening of all or some of a site could make a valuable contribution to green and open space networks, particularly where it is unlikely to be developed for some time, or is unsuitable for development due to its location or viability issues; and
 - locating development where investment in growth or improvement would have most benefit for the amenity of local people and the vitality of the local economy.

Circular 2/2012 Houses in Multiple Occupation

- 3.22 The section entitled 'HOUSES IN MULTIPLE OCCUPATION AND THE PLANNING SYSTEM' details that HMOs provide a vital source of accommodation, and planning authorities should seek to ensure that an adequate supply is available to meet demand.
- 3.23 Where concentrations of HMOs are considered to have a negative effect on the amenity of a community, or where it is considered likely that such a situation may arise, planning authorities may adopt policies to manage HMO concentrations, while ensuring that a sufficient supply of HMOs is maintained. Policies must be designed to safeguard community amenity, and must not be in response to perceived concerns about the behaviour of tenants.
- 3.24 It is noted that only a limited number of applications have been received by the Local Planning Authority for the change of use of dwellings to HMO properties (See Appendix 4). It is particularly worthy of note that the properties subject to planning application are not situated close to the appeal site and it could therefore not be determined that there would be a 'concentration' of HMO properties. Indeed, Midlothian do not have specific policies relating to the restriction of HMO properties within extant or emerging planning policy and thus it is



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concluded that there are no concentrations of HMO properties within Midlothian and the proposal will therefore assist in enhancing the current supply.



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4. GROUNDS OF APPEAL

- 4.1 The reason for refusal is outlined in chapter two. It centres on the belief that the application fails to comply with Policy RP20 of the Mid Lothian Local Plan (2008) insofar as it:
- *The use of the flat as a house in multiple occupation for 5 residents will put additional pressure on the limited number of existing on-street parking spaces and may lead to inconsiderate or illegal parking to the detriment of road safety.*
 - *The pressure for parking spaces will have a significant detrimental impact on the character and amenity of the surrounding area.*

- 4.2 Our response to the reason for refusal forms the Grounds of Appeal and which are now listed below.

GROUNDS OF APPEAL

GOA 1

- 4.3 The Council's assertion that the proposal would put additional pressure on the limited number of existing on-street parking spaces is disputed.
- 4.4 The Report of Handling states that: *"The most common scenario would be for a property of this size to be the base for 1 or 2 cars. The current on-street parking would need to accommodate this... Occupation of the building by 5 adults living not as a family unit raises the possibility of 5 vehicles being based at the property."*
- 4.5 Indeed, we would highlight that it is recognised that HMO's provide much needed housing accommodation, mainly for single people and tend to cater for the needs of those in lower income groups. Thus, car ownership is determined to be lower than average.
- 4.6 The Scottish Household Survey 2015 shows how the percentage of households with a car available for private use varies between different household types, income bands and type of area. In 2015, family (small or large) and large adult households were most likely to have access to at least one car (large family: 90%, small family: 89%, large adult: 87%). The SHS also showed that only 27% of large adult and 14% of large family households had 3 or more cars available for private use in 2015. ¹ The statistics also show that those households with a lower net annual income are less likely to have access to more than one car.
- 4.7 The subject site is acknowledged by the Council as being within a location that is within easy walking distance to Bonnyrigg Town Centre and it is also highlighted that there are bus stops

¹ <https://www.transport.gov.scot/publication/scottish-transport-statistics-no-35-2016-edition/SCT01171871341-04/#tb20>



within convenient walking distance of the site that offer public transport options to nearby towns as well as further afield such as Edinburgh for any future occupants.

- 4.8 In such a sustainable location, it is considered that a high level of car ownership is unlikely, even with up to 5 individuals living in the property. Although there is a perception that there is limited capacity to accommodate additional parking on the adjacent street network, in such a location, we are not convinced that there would be a sufficiently significant demand to refuse the application. It is accepted that there is a likelihood there will be an additional demand for parking, even though the site is located in an accessible location, however tenants are less likely to use their cars on a daily basis due to the site's accessible location in relation to the town centre and public transport facilities.

GOA 2

- 4.9 It is contested that proposal would lead to a significant detrimental impact on the character and amenity of the surrounding area.
- 4.10 The Planning Officer summarises the following and we would strongly question the contentions made: *"Occupation of the building by 5 adults living not as a family unit raises the possibility of 5 vehicles being based at the property. This number of vehicles could not be accommodated within the application site. This number of vehicles would put significant additional pressure on the demand for on-street parking spaces. A high demand for on-street parking can have a significant detrimental impact on the amenity of local residents, often leading to arguments and inconsiderate parking."*
- 4.11 No evidence has been provided by the Council's Roads Officer to support this view and as such a survey has been undertaken to review the operation of the adjacent street network and identify the current demand for parking in the surrounding area.
- 4.12 Notwithstanding the fact that HMO's are likely to have lower car ownership levels than traditional rented properties, a worst-case estimate of the additional demand for car parking in the area was assumed and assessed in line with all five residents owning a car. A detailed Parking Survey is contained within Appendix 3 and determines that the proposal would result in a net increase in the level of parking demand of four vehicles when compared with the operation of the existing property.
- 4.13 The parking survey demonstrated that this demand can easily be accommodated within a one minute (80m) walk of 29 Waverley Road, on either on Waverley Road or Waverley Park. Both roads will continue to provide space for additional parking following the increased demand generated by the proposed development, with a minimum of 12 spaces available on the adjacent network.
- 4.14 This assessment substantiates the appellants position, insofar as it demonstrates that there would be no meaningful pressure on the road network to accommodate cars belonging to future



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tenants.

GOA 3

- 4.15 The proposed conversion to a HMO would not have an impact on the character or amenity of the area. The property to be converted sits within an existing flatted building, which is part of a wider terrace of flatted properties. Whilst it is acknowledged that there are a mix of flats and semi-detached dwellings in the surrounding area, the current high density character of the area would not be significantly altered by the conversion.
- 4.16 The size of the property means that it could accommodate up to 5 people presently and the conversion would not alter this. It is therefore unlikely that amenity of nearby properties would be disturbed in terms of noise.
- 4.17 The garden ground allows for private amenity space for future occupants. There will be no overlooking or overshadowing of/from nearby properties.
- 4.18 The Planning Officers Report of Handling states:

The proposed house of multiple occupation will have sufficient levels of daylight and an adequate outlook that is not encroached on by neighbouring properties. There is a small amount of garden ground available to the rear of the property. It is also noted that the amount of private garden ground available at neighbouring properties within the area are of a similar size. Therefore, in these circumstances the proposed change of use is acceptable in terms of residential amenity.

GOA 4

- 4.19 The area is built up and in an area close within walking distance of the town centre which lends itself to higher density living and one which contains a mix of residential types. Amenity space for each dwelling is also accepted as being minimal in terms of necessity and as a result of the existing historic urban fabric.
- 4.20 The site is sustainably located and can avail of local services and public transport into the surrounding settlements and Edinburgh city centre. Significant recreation and open space provision is located within short walking distance thus providing ample nearby amenity space.



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5. CONCLUSION AND SUMMARY

- 5.1 We believe that the subject site represents a sound location for the conversion of the existing flat and creation of a HMO. It does not conflict with the character of the area and represents a highly sustainable location close to the amenities of the town centre and within close proximity to the public transport system.
- 5.2 There has only been one statutory consultee objection to the proposal and we believe that the proposal, for reasons outlined in the 'Grounds of Appeal', provide more than sufficient evidence to show how it can meet the car parking provision and related planning policy and go toward the provision of a much needed mix of housing in Midlothian.
- 5.3 Taking the 'Grounds of Appeal' noted within Chapter 4 we therefore respectfully request that this appeal be allowed.

29 Waverley Road, Bonnyrigg

Parking Capacity Review

Mr Luigi Pia

Job No: 1015948

Doc Ref: RPT-TC-01

Revision: —

Revision Date: 08 September 2017

Project title	29 Waverley Road, Bonnyrigg	Job Number
Report title	Parking Capacity Review	1015948

Document Revision History

Revision Ref	Issue Date	Purpose of Issue / description of revision
—	8/09/2017	Draft

Document Validation (latest issue)

X

Principal author

X

Checked by

X

Verified by

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1.0

Introduction

2.0

Parking Capacity Review

2.0 Parking Capacity Review

2.1 Introduction

The level of demand for parking was captured via a survey undertaken between Wednesday 23rd and Sunday 27th August 2017. The survey included the overnight periods when demand for parking is expected to be at its highest. The result of the parking survey was compared with the observed level of parking capacity on the adjacent highway network, to determine the ability of the network to accommodate additional demand.

The network capacity has been estimated taking cognisance of existing parking restrictions and assuming that vehicles are only able to park on one side of the street, to provide a robust estimate of the available capacity.

The parking survey covered the following roads in the vicinity of the property:

- Waverley Road;
- Waverley Crescent; and
- Waverley Park.

The extent of the survey is shown in Figure 2.1.

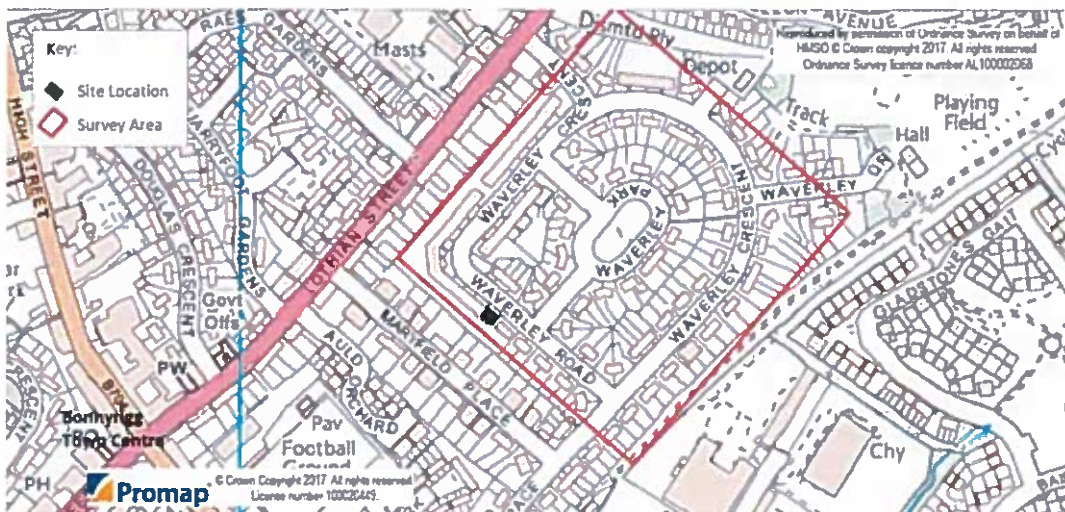


Figure 2.1 Survey Area

The survey data is included in Appendix A and the results were summarised in sections to enable a detailed analysis of the data to be undertaken. This study focuses on the road network in the immediate vicinity of the site to identify the availability of parking spaces within a convenient 1 minute (80m) walk of the property.

Figure 2.2 summarises the sections which are the subject of this review.

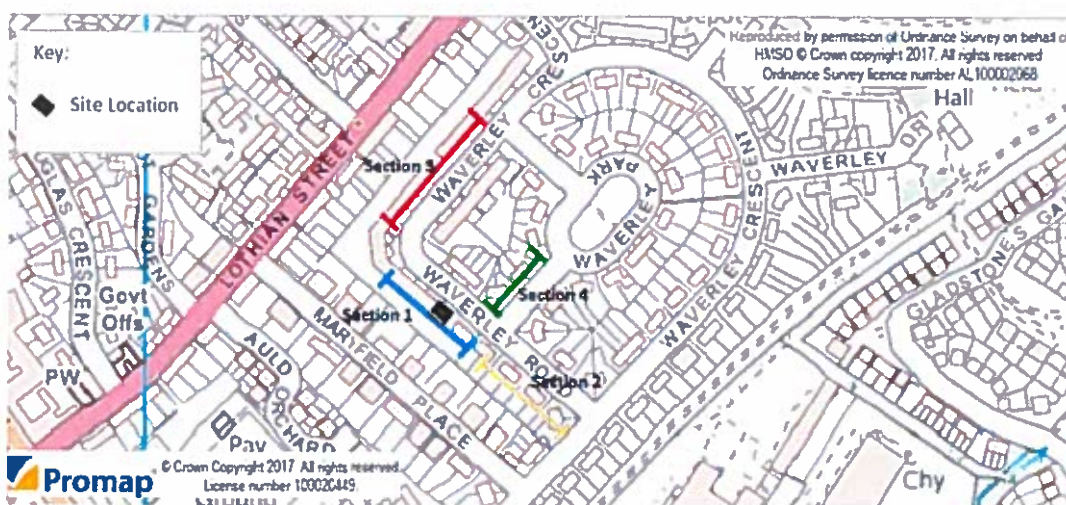


Figure 2.2 Local Road Network

2.2 Section 1 – Waverley Road (west)

This section of Waverley Road is located adjacent to No. 29. Figure 2.2 summarises the results of the review of the operation of Section 1, comparing the current demand for parking with its capacity.

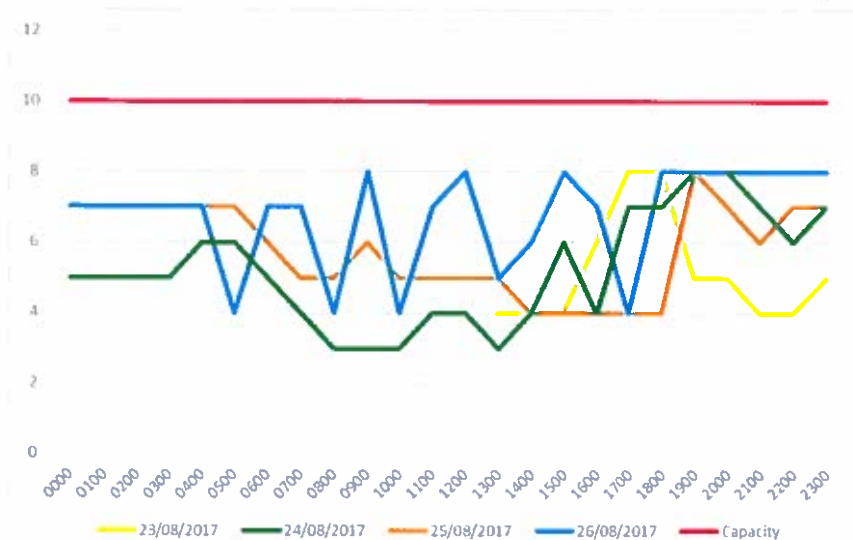


Figure 2.2 Section 1 Parking Demand

The survey confirms that this section of the local road network experiences the greatest level of demand at the start and end of the day and over the weekend. The section was observed to operate within capacity, with a minimum of two spaces available throughout the survey.

2.3 Section 2 – Waverley Road (east)

This section of Waverley Road is located to the east of Waverley Park. Figure 2.3 summarises the results of the review of the operation of Section 2, comparing the current demand for parking with its capacity.

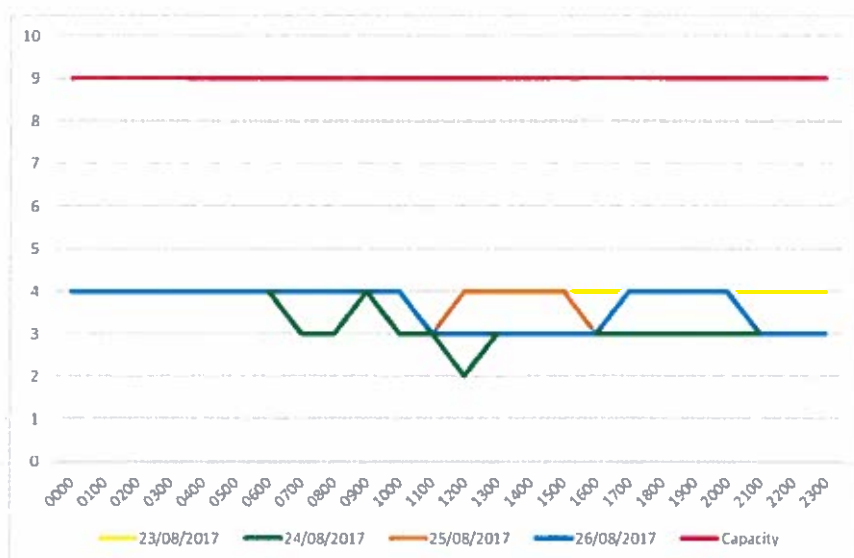


Figure 2.3 Section 2 Parking Demand

The survey confirms that this section of the local road network accommodates a maximum demand for four vehicles, with this demand fairly constant over the survey period. The section was observed to operate within capacity, with a minimum of two spaces available throughout the survey.

2.4 Section 3 – Waverley Crescent

This section of Waverley Crescent is located immediately to the north of Waverley Road. Figure 2.4 summarises the results of the review of the operation of Section 3, comparing the current demand for parking with its capacity.

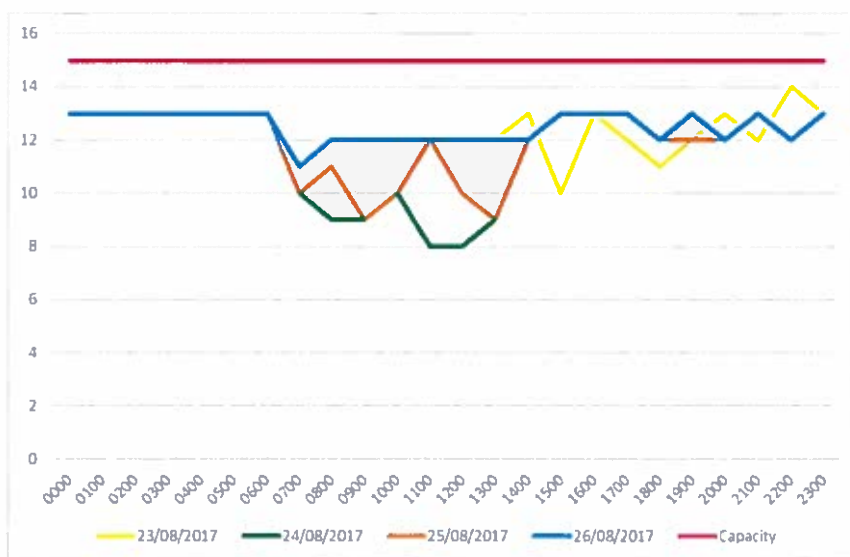


Figure 2.4 Section 3 Parking Demand

The survey confirms that this section of the local road network experiences the greatest level of demand at the start and end of the day and over the weekend. The section was observed to operate close to capacity, with only one space being available during the peak period of demand.

2.5 Section 4 - Waverley Park

This section of Waverley Park is located immediately to the north of Waverley Road. Figure 2.5 summarises the results of the review of the operation of Section 4, comparing the current demand for parking with its capacity.

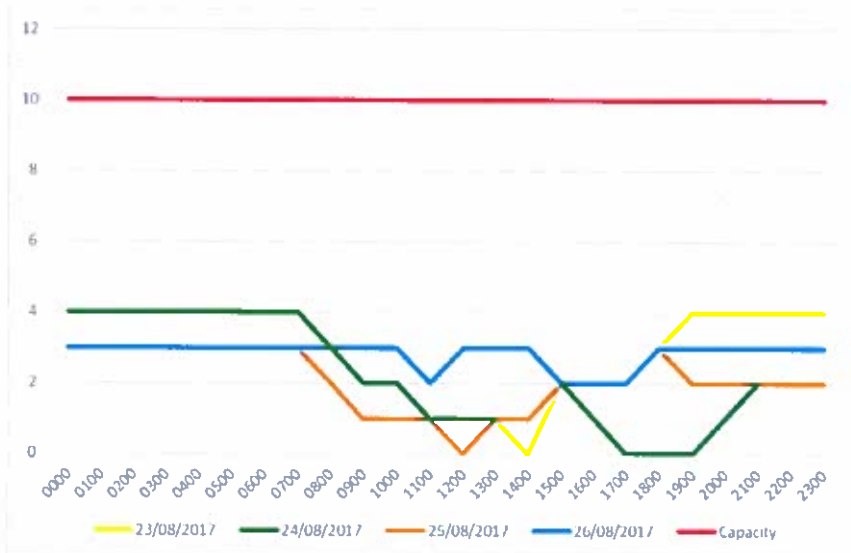


Figure 2.5 Section 4 Parking Demand

The survey confirms that this section of the local road network experiences the greatest level of demand at the start and end of the day and over the weekend. The section was observed to operate well within capacity, with a minimum of six spaces available throughout the survey.

2.6 Overall Capacity

Figure 2.6 provides a summary of the combined demand across all four sections of the highway network, comparing this with the overall parking capacity.

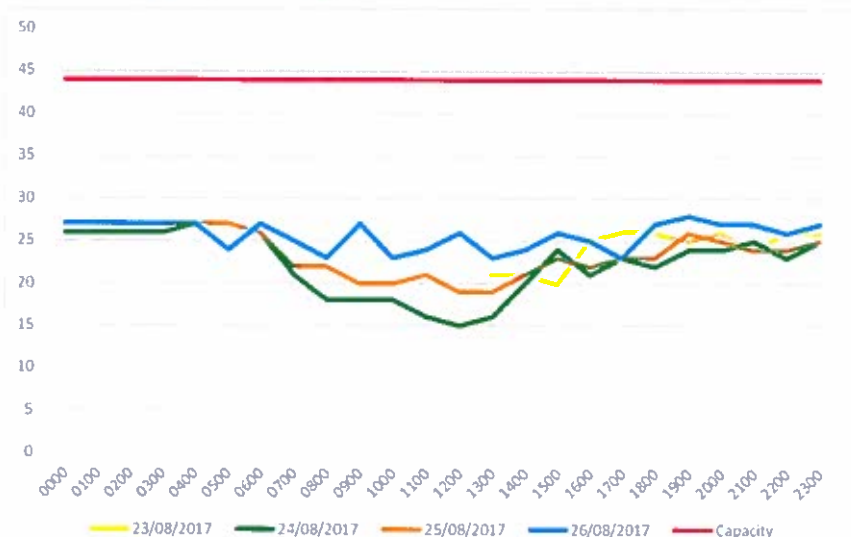


Figure 2.6 Overall Parking Demand

As can be seen from the above summary, the local road network is observed to have the capacity to accommodate 16 additional parked vehicles. The review confirms that the network follows the trend of the individual sections by experiencing the greatest level of demand at the start and end of the day and over the weekend. This is consistent with the operation of a residential road network.

2.7 Development Impact

It is proposed to convert an existing flat to accommodate 5 residents, in association with an HMO application. The demographics of residents living in properties with multiple occupants, generally results in lower levels of car ownership and it is unlikely that each resident will own a car. Nevertheless, to provide a worst-case estimate of the additional demand for car parking in the area, it has been assumed that all five residents will own a car, resulting in a net increase in the level of parking demand of four vehicles when compared with the operation of the existing property.

The parking survey has demonstrated that this demand can easily be accommodated within a one minute (80m) walk of 29 Waverley Road, on either on Waverley Road or Waverley Park. Both roads will continue to provide space for additional parking following the increased demand generated by the proposed development, with a minimum of 12 spaces available on the adjacent network.

3.0

Summary and Conclusions

3.0 Summary and Conclusions

3.1 Summary

Cundall has been appointed to provide transportation advice to support the proposed change of use of 29 Waverley Road, Bonnyrigg to accommodate a multiple occupancy dwelling. The proposals will result in the existing flat being converted to accommodate five residents.

Midlothian Council have raised a concern with regard to the ability of the adjacent road network to accommodate the additional parking demand generated by the development proposals and a parking survey has been undertaken to review the current operation of the road network to identify its ability to accommodate additional parking.

3.2 Conclusion

The survey has identified that there is spare capacity to accommodate the additional demand for parking generated by the proposed development. It is therefore considered that the development will not lead to inconsiderate or illegal parking, or have a significant detrimental impact on the area's character or amenity and taking into consideration the evidence presented within this technical note, we believe there are no grounds for refusal of this application based on the impact to road safety.

4.0

Appendices

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 17/00440/DPP

Site Address: 29 Waverley Road, Bonnyrigg.

Site Description:

The application site is located within a residential area which comprises of flatted dwellings and semi detached properties. The application site is within walking distance of the town centre of Bonnyrigg. The application comprises of a three - storey end-terraced flatted building.

The building is finished in a reconstituted stone and dry dash with a flat roof and white uPVC windows. To the rear of the application site there is a small enclosed area of shared garden ground.

Proposed Development: Change of use from flatted dwelling to house of multiple occupation.

Proposed Development Details:

There is no definition of a HMO in planning legislation; for the purposes of licensing, Part 5 of the Housing (Scotland) Act 2006, as amended, defines that living accommodation is a HMO within the meaning of the Act if it is:

- occupied by three or more persons from three or more families, and
- occupied by them as their only or main residence or in some other manner specified by the Scottish Ministers by order, and
- either a house, premises or a group of premises owned by the same person with shared basic amenities, or some other type of accommodation specified by the Scottish Ministers by order.

The formation of a HMO will not always require planning permission. Planning permission for a HMO is generally required only where use as a HMO is considered to be a material change of use.

Planning permission is sought for the change of use of a flatted dwelling to a house of multiple occupations as it is a material change of use. The layout will comprise of 4 bedrooms, a kitchen, a bathroom and a balcony.

The agent has stated within the application form that one parking space is available, this comprises of an on-street parking space. There is a driveway to the front of the application site, however, this is not owned by the applicant. There does not appear to be any scope to provide additional parking provision.

Background (Previous Applications, Supporting Documents, Development Briefs): Planning history sheet checked.

No relevant planning history.

Consultations:

The **Policy and Road Safety Manager** raised road safety concerns over the impact of the proposal on the surrounding road network. It was noted that the majority of properties on Waverly Road and the surrounding streets do not have private driveways and rely on the limited number of on-street parking spaces for residential and visitor parking. This 'change of use' would result in an increase in the number of residents and visitors looking for on-street parking in this area. This situation would place additional pressure on the limited number of on-street spaces available and may lead to inconsiderate or illegal parking to the detriment of road safety.

The **Environmental Health Manager** has no objection to the proposal. It was noted that the proposed layout would provide suitable adequate accommodation for a maximum of 5 persons. It is noted that the number of residents that occupy the property is not controlled by the Planning Authority and these matters would be addressed by licensing.

Representations:

One representation has been received, which objects to the above planning application. The representation raised concerns which can be summarised as follows:

- concerns with regards to the number of occupants that could reside in the property at any one time;
- concerns relating to the lack car parking spaces and the proposal exacerbating the current situation;
- concerns that the proposal will result in disputes and anti-social behaviour; and
- concerns relating to future owners/landlords of the property and the possibility of setting a precedence.

The above concerns will be addressed within the planning issues section of this report.

Relevant Planning Policies:

The relevant policies of the **2008 Midlothian Local Plan** are;

RP20 – Development within the Built-Up Area - seeks to protect the character and amenity area.

DP2 – Development Guidelines – This policy sets out the Development Guidelines that are to be applied for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings.

The **Midlothian Local Development Plan (MLDP)** was submitted to the Scottish Ministers for examination on 09 September 2016. The Examination Report was received in July 2017 with formal adoption anticipated for late 2017. As this plan is at an advanced stage of preparation it represents the settled view of the Council and is therefore a material consideration of significant weight in the assessment of applications. The following policies in the MLDP are relevant to this application:

Policy DEV2: Development within the Built-up Area states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.

Planning Issues:

The proposed change of use of the flatted dwelling to a house of multiple occupation will comprise of 4 bedrooms, a bathroom, a kitchen and a balcony. The application site is located within a residential area which is within walking distance of Bonnyrigg town centre (10 minute walk).

The proposal seeks to convert an existing flat into a house of multiple occupations within a residential area. The application dwellinghouse is located in close proximity to public transport links which may reduce the requirement for a car. However, the site is not located within a town centre location, it is located within a residential area and there is limited parking provision available.

The proposed house of multiple occupation will have sufficient levels of daylight and an adequate outlook that is not encroached on by neighbouring properties. There is a small amount of garden ground available to the rear of the property. It is also noted that the amount of private garden ground available at neighbouring properties within the area are of a similar size. Therefore, in these circumstances the proposed change of use is acceptable in terms of residential amenity.

The streets surrounding the application subjects are predominantly residential, the size of the properties means that the majority of the properties are likely to be family residences. While it is acknowledged that a 3 bedroom flat could potentially be occupied by 2 parents and 2 adult children, all with their own vehicles and potentially additional work vehicles, this would be an uncommon scenario. The most common scenario would be for a property of this size to be the base for 1 or 2 cars. The current on-street parking would need to accommodate this.

The road safety manager noted concerns in relation to the proposed change of use and in terms of the impact upon the parking and road safety. It was identified that the majority of properties on Waverly Road and the surrounding streets do not have private driveways and rely on the limited number of on-street parking spaces for residential and visitor parking. The proposed change of use would place additional pressure on the current limited on-street parking spaces.

Occupation of the building by 5 adults living not as a family unit raises the possibility of 5 vehicles being based at the property. This number of vehicles could not be accommodated within the application site. This number of vehicles would put significant additional pressure on the demand for on-street parking spaces. A high demand for on-street parking can have a significant detrimental impact on the amenity of local residents, often leading to arguments and inconsiderate parking.

The use of the flat as a HMO will put significant pressure on the demand for on-street parking within an area where there is limited parking spaces. The pressure for parking spaces will have a significant detrimental impact on the character and

amenity of the surrounding area and is therefore contrary to policy RP20 of the adopted Midlothian Local Plan.

It is noted that one objection representation was received which raised concerns. All material planning considerations raised within the representations have been addressed above within this section of the report.

With regards to the maximum number of occupants, Environmental Health advised that accommodation would be suitable for a maximum of five people. Had the planning authority been minded to support the proposed change of use then it is noted that the maximum number of occupants would be restricted by licensing.

With regards to concerns relating to anti-social behaviour and disputes, the possibility of anti-social behaviour by future occupants of a building is something that could occur irrespective of the ownership and/or occupancy arrangement of a building; it is not a material planning consideration.

With regards to ownership of the property and future landlords, this is not a material planning consideration.

Overall, all relevant matters have been taken into consideration in determining this application. It is considered that the proposal does not accord with the principles and policies of Midlothian Local Plan and is not acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is refused.

Recommendation: Refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 17/00440/DPP

D2 Architectural Design Ltd
9 Eskbank Road
Dalkeith
Edinburgh
EH22 1HD

Midlothian Council, as Planning Authority, having considered the application by Mr Luigi Pia, 9 Whitehouse Gardens, Gorebridge, EH23 4FQ, which was registered on 5 June 2017 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from flatted dwelling to house in multiple occupation at 29 Waverley Road, Bonnyrigg, EH19 3BS

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	S01 1:1250	05.06.2017
Proposed Floor Plan	S 1:50 First Floor	05.06.2017

The reasons for the Council's decision are set out below:

- The use of the flat as a house in multiple occupation for 5 residents will put additional pressure on the limited number of existing on-street parking spaces and may lead to inconsiderate or illegal parking to the detriment of road safety. This pressure for parking spaces will have a significant detrimental impact on the character and amenity of the surrounding area and is therefore contrary to policy RP20 of the adopted Midlothian Local Plan.*

Dated 31 / 7 / 2017



.....
Duncan Robertson
Lead Officer – Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



**The Coal
Authority**

[authority](http://www.coalauthority.gov.uk)

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: planningconsultation@coal.gov.uk

Website: [www.gov.uk/government/organisations/the-coal-](http://www.gov.uk/government/organisations/the-coal-authority)

INFORMATIVE NOTE

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Standards approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

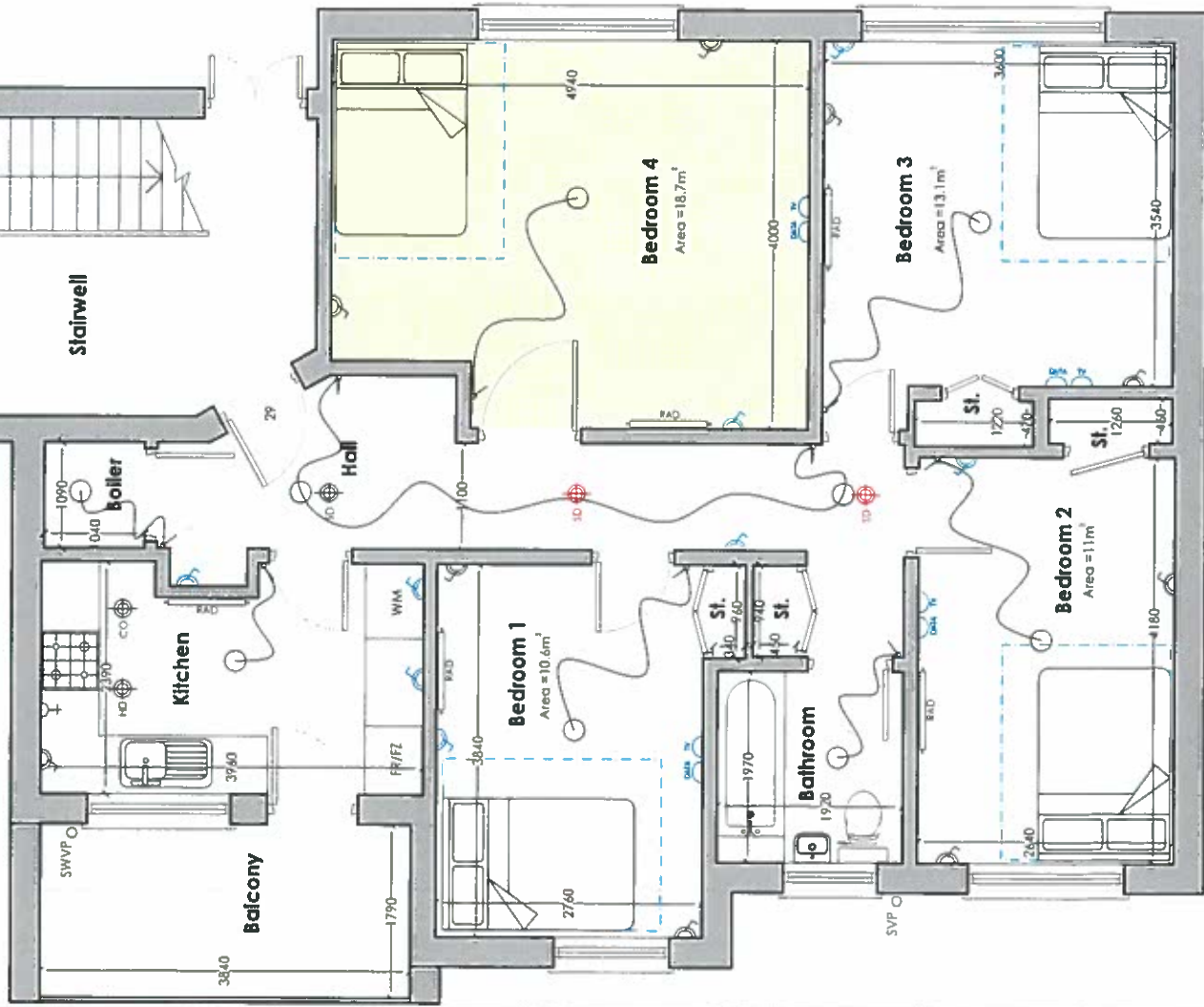
Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority










This Informative Note is valid from 1st January 2017 until 31st December 2018

Scale 1:50 @ A3

Scale 1:50 @ A3



ex. Pendant light fitting

- | | |
|---|--|
|  | Ex. Pendant light fitting |
|  | Pr. Spot light fitting |
|  | Pr. Ceiling mounted head detector (H01), means connected to existing system and linked to each other |
|  | Ex. Ceiling mounted head detector (H01), means connected to existing system and linked to each other |
|  | Ex. Ceiling mounted carbon monoxide detector |
|  | Pr. Double socket, switched |
|  | Ex. Double socket, switched |
|  | Ex. Cooker control switch |
|  | Ex. Single switch (2 - channels 2 wond |

All electrical work to comply with BS 7671:2008, the current Building Regulations and the latest IEE regulations

Activity Species

Page 10 of 10



Location plan
Scale 1:1250 @ A3



Do not scale from drawing.

All dimensions to be confirmed on site!
This drawing is for the purpose of obtaining Local Authority Approval only, additional information may be required for construction purposes.

Revisions

architectural design

[illegible]

SURVEY

PROJECT
HMO converts
for Mr. Pina

DRAWING

Location and Floor Plan - as proposed

DATE	DRAWN	SCALE
17 11 16	PK	0.75" = 1'-0"

PROJECT	DRAWING No.	REVISION

Psychosocial Adaptation and Quality of Life

APPENDIX E