

Notice of Review: 26 Mavisbank, Loanhead

Determination Report

Report by Dr Mary Smith Director of Education, 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 erection of fencing at 26 Mavisbank, Loanhead.

2 Background

- 2.1 Planning application 19/00159/DPP for the erection of fencing at 26 Mavisbank, Loanhead was refused planning permission on 3 April 2019; 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 (the applicant has also submitted photographs of the fencing, but on the basis that the development is in situ and will be seen during the LRB site visit the photographs are not included in the papers):
- 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); and
 - A copy of the decision notice, excluding the standard advisor notes, issued on 3 April 2019 (Appendix D).
- 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 Tuesday 10 September 2019; and
 - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that one consultation response and one representation was received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All the comments can be viewed online on the electronic planning application/review case file.
- 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 The nature of the proposal is such that it is considered that no conditions would be required if the LRB is minded to grant planning permission.

6 Recommendations

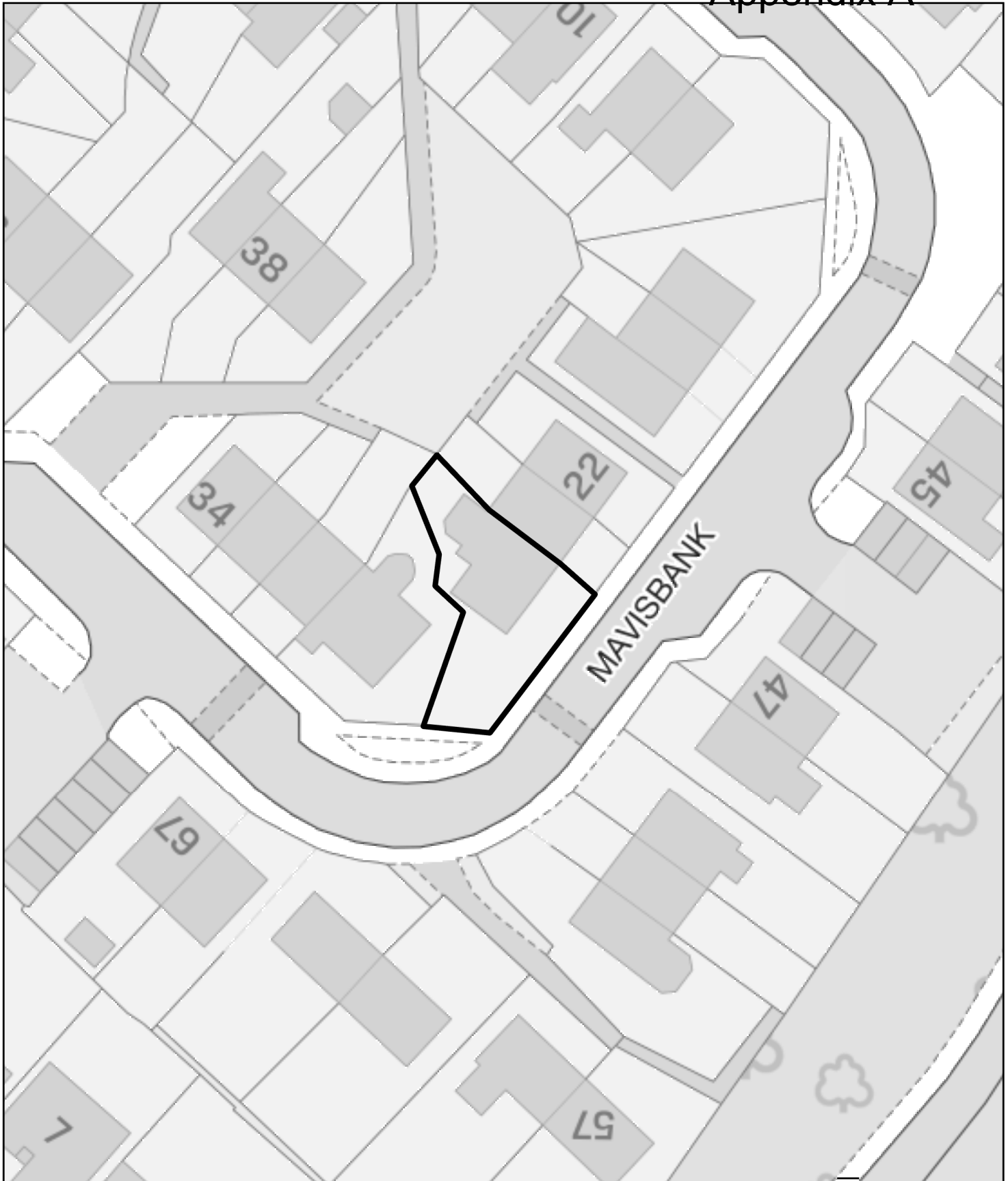
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 3 September 2019

Report Contact: Joyce Learmonth, Lead Officer Major Developments and Enforcement
joyce.learmonth@midlothian.gov.uk

Tel No: 0131 271 3311

Background Papers: Planning application 19/00159/DPP available for inspection online.



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Erection of fence (retrospective) at 26 Mavisbank, Loanhead

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File No. 19/00159/DPP

Scale: 1:500



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 100151535-003

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

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	26 Mavisbank
First Name: *	paul	Building Number:	26
Last Name: *	black	Address 1 (Street): *	26 Mavisbank
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	LOANHEAD
Extension Number:		Country: *	United Kingdom
Mobile Number:		Postcode: *	EH20 9DD
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Midlothian Council

Full postal address of the site (including postcode where available):

Address 1:

26 MAVISBANK

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

LOANHEAD

Post Code:

EH20 9DD

Please identify/describe the location of the site or sites

Northing

665249

Easting

328305

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)

NOTICE OF REIVEW mavisbank security fence Fence to surround a corner and side of 26 mavisbank to provide security and storage for household waste bins. Stone covered driveway (lanes) to be replaced by monoblock.

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.

I have to do this from a hotel room and using a mobile phone. I submitted Sunday morning. Not sure why the application can't be forward to LRB? — THE FOLLOWING PLUS ATTACHED DOCUMENTS FORM THE APPEAL — Support for fence from residents - signatures Already precedence for fences of similar style and location going back to 1975 Addressed the health concern raised Addressed points made re DEV2 Addressed conflicting / subjective use of term 'Amenity'

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)

please see attached documents 1. document reviewing the response to my planning application 2. scanned photos of the signatures in support of residents 3. template document used for signatures

Application Details

Please provide details of the application and decision.

What is the application reference number? *

19/00159/DPP

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

26/02/2019

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

03/04/2019

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: Mr paul black

Declaration Date: 01/07/2019

Appeal - Retrospective Planning Application for security fence

Context

A retrospective planning application for a security fence was refused.

The fence is tall, neatly built and owner was encouraged to complete the work by consistently positive comments from residents of Mavisbank. There was no intention to break any planning guides, or policy.

The owner contacted the planning officer and discussed the intention to remove the fence. If there was clearly issues against the fence, it would be removed. However, the owner was persuaded that the application had a high probability of success and that "even if refused it can be appealed."

A policy known as DEV2 was not mentioned during discussions before the application was submitted. The term amenity used in DEV2 was brought to the attention of the owner at the point the application was refused. **Therefore, the criteria relied upon for refusal were not visible when the application was drafted;** The owner argues that the criteria used for rejection is subjective, not consistent, and out of step with the residents and existing fences and 'frontage' of Mavisbank.

- The owner has spoken to residents of over 12 properties, and full support has been given for the appeal;
- The fence is practical, modern and fits in with improvements to the area;
- Refusal is based on subjective interpretation of the term amenity;
- The area has many examples of tal fences; and therefore there is already a precedence;
- Confirmed with residents that there is no impact on character or amenity - which was also (confusingly) stated in the refusal response.

The owner hopes that the application decision is reviewed and the fence is allowed to remain.

Review of application

In the following text, *Italic text* is quoted from the response to the retrospective planning application.

"Relevant Planning Policies: The relevant policy of the **Midlothian Local Development Plan 2017** is;

DEV2 – Protecting amenity within the built-up area - seeks to protect the character and amenity of the built-up area."

- The owner was not made aware of the policy DEV2 during discussions with the planning manager. Therefore the application was written without that information. The application would have been significantly different, if this policy was highlighted as relevant.
- Within the response narrative amenity is used in contradictory context for and against the construction of the fence. Therefore this highlights that...
- ...Amenity is a highly subjective term and is unhelpful in this context. It is argued the construction does not impact amenity. Supported by 14+ residents (so far).

"Consultations: *Policy and Road Safety Manager – no objection. The erection of the fence does not raise any road safety issues."*

- The owner agrees with this comment. This is based on fact.

"Representations: *One representation has been received in relation to the application from the occupier of 28 Mavisbank raising concern regarding the height of the fence and the enclosed garden area being used as a dumping ground for rubbish attracting vermin and causing health issues."*

- The actual comment was that the height of the fence would permit use as a 'dumping ground'. The concern was the use of the garden. There is also no evidence to back up this comment.
- Intention of the fence is for security and privacy. The rear of the property has very limited space. The corner / side garden provides much needed outdoor space, for the owners family. The contents of the garden are also visible from the front gate entrance via the trellis fence panels - therefore any 'dumping' could not be hidden by a tall fence. There is no basis for the health issue concern, the comment is invalid.

"The applicant has responded to the above representation reiterating that several

neighbours have voiced support for work done to his garden and that the work was carried out to improve the appearance and function of the garden."

- Agreed, additionally, over 14 neighbours in the area have confirmed their support. See attached signature list.

"Planning Issues:

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval."

- https://www.planningportal.co.uk/faqs/fag/4/what_are_material_considerations
- There are no negative material considerations. The fence provides a neat 'frontage' to the corner and does not impact highway or safety, traffic parking etc. The benefits are aesthetic, practical in terms of maintenance, security and privacy. As per the application response, the fence also does not impact amenity. There are also other tall fences in the area; there is already a precedence.

"The surrounding area is predominantly characterised by houses set back from the road behind front and side gardens with 1m high fences or walls along the street frontage. The relatively open front and side gardens contribute to the pleasant character of the area."

- Disagree; Mavisbank has a wide variety of 'frontage', namely:- various driveways, fenced, neat gardens, etc.
- Trellis sections ensure the garden is still visible. My garden is one of the more mature gardens in Mavisbank and has several trees etc. Construction of the fence, has ensured the garden is more maintainable, and presentable.
- During initial correspondence with the planning manager; there was no disclosure of policy DEV2.. If this information was noted, it would have impacted the application for retrospective planning permission.
- The owner believes policy DEV2 leaves open to personal interpretation the term 'amenity'. However, all the signatures agree the fence has a positive impact on amenity.

"Located at a corner plot, at its current height and position, including close to the pavement and extending beyond the front building line of the application property, the fence is very prominent in the streetscape."

- The property is lined with trees. The trees add to the character of the area and soften any man-made structure, including fences.

- Since the fence was constructed to contain the existing trees, etc it is unquestionably neater and more maintainable than previous. This is backed by the signature list. The fence additionally provides security and privacy for the owner and family, with no detrimental impact on the amenity of the street or other properties in Mavisbank (as also noted in the application response narrative).
- Many other properties in Mavisbank have tall fences that provide similar privacy and security. It is correct that number 26 is a 'corner plot' - this should not be a cause to refuse the ability to secure and provide privacy in a similar fashion (ie. a tall neat fence).

"It is not disputed that the fence is of neat construction however it is out of character with and presents a harsh frontage in the street scene with a detrimental impact on the visual amenity of the surrounding area."

- The names of the signature list strongly disagree that the fence is harsh and detrimental to the visual amenity or character of the area. In fact, the consensus is the fence is a hugely positive improvement. Mavisbank has undergone improvements over the last few years, such as renewed of wall cladding etc; the fence ties in closely with the updated modern look of the street; it's an understated charcoal black. There are also many other fences of similar colour.
- Confirmed with several residents if a colour change would be more pleasing; all have indicated the current colour is perfectly suitable and in line with the character of Mavisbank. Several other fences in the area are also black.
- Many residents did not realise that they could have indicated support for the fence during the initial application. This is relevant since many would have wished to officially note support for the work carried out.

"If approved, the fence, including the trellis, could set an undesirable precedent for other similar fences along the street frontage which would lead to the degradation of the character and appearance of the street."

- Disagree. The owner has spoken at length with several neighbours, none agree that the fence is undesirable or would promote a (new) precedence. Each property has different needs in terms of privacy and security. There is no degradation of character or appearance to the street.
- Many residents have indicated, they use similar colour schemes. There are in fact already several fences that are similar scale and colour in the street, including trellis fence sections. See below for a sample list.
- The location of the garden dictates that additional security is required.
- The other corners on Mavisbank have mature driveways or fences and are all very different in style, and all contribute to the character of the area;

- There are many different styles throughout the area. Therefore, my fence does not degrade the character or appearance of the street.

"The applicant has mentioned other fences at Mavisbank although has not made clear their exact location. There is a 1.8m (approx.) high fence along the side and rear boundary of no. 69 Mavisbank. There is no record of planning permission having been granted for this back to 1975. He mentions a fence at the entrance to Mavisbank. There is a 1.8m (approx.) high fence along the side and northeast boundary of 22 Polton Road. Whilst prominent it is set back from the pavement behind a grassed area at the side. There is no record of planning permission having been granted for this back to 1975."

- The following properties have tall fences, similar construction, visibility and many are painted black
 - **Number [37]** → the fence here encloses a corner garden and provides privacy and security. Very similar to the fence under review.
 - **[2]** → as per 37, also on corner. Significant structure. More impact on coverage and visibility than fence under review.
 - **[10] and [12]** → tall security panel fences; similar construction to fence under review.
 - **[115]** → trellis fence; Similar to section fence under review.
 - **[45]** → tall fence panel at front of house. It's the remainder of a more substantial fence (from a few years ago); Not as neat construction, however similar visibility and 'amenity'.
 - **[48] and [81]** → significant fences. Similar impact to the fence under review.
 - **Number [69]** → has a considerably larger structure than the fence under review. The fact that there's no planning permission record since 1975 and obviously no complaints, making a retrospective application necessary; suggests that tall enclosing security fences have been part of the Mavisbank area since it's development - 44 years ago :-
 - Therefore the fence under review is not degrading appearance or character of the street. See supporting signatures.
 - This also suggests that the precedence already exists.
 - It is relevant that there are other fences of varying styles throughout Mavisbank and that my fence does not impact the diversity, amenity or character of the area.

"Whilst not as immediate, a densely planted hedge could provide a barrier to trespassers and would appear as a softer feature in the street scene more in keeping with the character of the area and, dependent on the species, would only require trimming once or twice a year. A smaller bin store would prevent bins being blown over."

- The owner can confirm that the previous densely packed hedge/bushes did not provide adequate security from trespassers (including using my garden for 'dog walking').
- An enclosed area with gated bin store secures and ensures that the bins are not open to vandalism or the elements.
- See the list of signatures - all agree the fence is practical and achieves the desired objectives of security and keeping to desirable aesthetics of the area.

The following text is taken directly from the response to the planning application:-

"The fence does not have a significant impact on the amenity of neighbouring properties. Any issues in relation to vermin and health arising from the use of the garden should be reported to the Council Environmental Health section. "

- This text is contradictory relating to the point that the fence impacts the amenity of the street (stated previously section in the response). This contradiction highlights that the term amenity is highly subjective and used against and in support for the fence in the same narrative.
- Neighbours have confirmed that the fence has a positive impact to the street. Much improved over the overgrown bushes etc that where previously. They also did not provide any deterrent to trespassers.
- The street has benefitted from the fence since there's now not possible for rubbish bins to tip via the wind.
- Comment regarding a vermin issue. Provide evidence. Environmental health would have been involved if an issue for the neighbours or the area of Mavisbank. The claim has no backbone, it is fabricated

Summary

A neatly constructed fence was constructed to improve privacy, security, appearance and amenity of the garden area at number 26. The fence aligns to the existing character and improvements to modernise Mavisbank.

Concerns over impact on Mavisbank have been positively addressed. The construction was discussed with residents; There is overwhelming support for the fence - signatures included¹.

The policy DEV2 criteria mentioned in the planning application response were not made visible at the time of application. Use of the term amenity in DEV2 is subjective and also inconsistently used in the original application response. The points raised to back up a refusal decision were subjective and do not align with the survey of over 14 long term residents of Mavisbank.

The fence has been visible for over 8 months to date; there has been just one unfounded concern raised over 'health' / 'Vermin' - however, the same comment made regarding 'dumping' states that the fence itself is not an issue.

There are existing tall security fences and enclosed gardens in Mavisbank therefore the fence under review is not setting a precedence. If the location of the fence is the issue this is discriminatory, preventing adequate security for number 26. The survey of residents has indicated they are in support of the work carried out, and believe the fence should be permitted to remain. The council is welcome to contact the owners to confirm.

A significant amount of work was undertaken to improve the garden, including the fence. The owner wishes the decision to be reviewed and points detailed above to be taken into consideration.

The owner hopes that this narrative provides sufficient information to make a positive decision to allow the fence to remain. If further information is required please contact the owner via post or email.

¹ I could survey more residents, if necessary

Support for fence from residents - signatures

Already precedence for fences of similar style and location going back to 1975

Addressed the health concern raised

Addressed points made re DEV2

Addressed conflicting / subjective use of term 'Amenity'

Appeal - Retrospective Planning permission for security fence

The following residents of Mavisbank support the appeal to retain the fence at number 26.

- We do not feel the fence changes the character of Mavisbank
- The fence improves the aesthetics and amenity of the property /street
- The fence provides practical privacy and security for the owner / family
- The fences does not detract from the pleasant character of the street
- The fence is a positive enhancement to number 26 and should be allowed to remain

House	Name	Date
20	Louise Puerman	6/6/19
24	Ricky Munn	8/6/19
53	LARA MORRIS	16/6/19
51	JACQUELINE ROBERTSON.	16/6/19
47	E. Leland	23-6-19
61	Joyet Phillips	23-6-19
55	M. McKean	23-6-19
23	T. Parnia	23-6-19
18	M. Wilson	26-6-19
32	J. [unclear]	26-6-19
40	R. [unclear]	26/6/19
30	M. Connelly	28/6/19

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference:19/00159/dpp

Site Address: 26 Mavisbank, Loanhead

Site Description:

The application property comprises a two storey end terraced dwellinghouse and its associated garden. It appears to have been extended at the side at two storey and there is a conservatory to the rear of the house. There is a 0.95m high brick wall incorporating railings along the site frontage.

The application property is located within a residential area.

Proposed Development:

Erection of fence (retrospective)

Proposed Development Details:

Planning permission is being sought retrospectively for a horizontal boarded timber fence ranging in height between 1.8m and 2.1m above ground level. The fence has been erected around the side garden of the application property running parallel to the pavement along the south east and south west boundaries and running along the boundary with the side garden of no. 28 next door. The fence is set back 30cm behind the 0.9m high wall and railings along the site frontage. A trellis a maximum of 1.9m high has been erected in the front garden adjacent to the drive to screen dustbins. The fence and trellis have been painted black.

Gates are also proposed in the gaps between the fence and the house to enclose the garden.

The submitted details state that stone chips at the driveway have been replaced with mono blocks which is shown on the submitted photographs. However this was not included in the description of the development on the planning application form and does not form part of the development under consideration in terms of the current planning application.

Background (Previous Applications, Supporting Documents, Development Briefs):

History sheet checked.

The applicant has submitted an e-mail in support of the application the points raised in which are summarised as follows:

- The fence provides security to stop trespassing in to the side and rear garden;
- The street suffers from a wind tunnel effect - with the erection of the fence and trellis there is less risk of bins being blown over and rubbish blown around the street;

- Ease of maintenance as opposed to previous overgrown shrubs and trees some of which have now been removed;
- He has received positive feedback from neighbours regarding the fence;
- There are other tall fences in Mavisbank;
- The fence does not change the character or appearance of the street and is in keeping with other improvements in the street and is less permanent than other developments in the street eg porches;
- The fence prevents the bushes and trees at the site from spilling over on to the pavement and helps maintain visibility at the corner.

Consultations:

Policy and Road Safety Manager – no objection. The erection of the fence does not raise any road safety issues.

Representations:

One representation has been received in relation to the application from the occupier of 28 Mavisbank raising concern regarding the height of the fence and the enclosed garden area being used as a dumping ground for rubbish attracting vermin and causing health issues.

The applicant has responded to the above representation reiterating that several neighbours have voiced support for work done to his garden and that the work was carried out to improve the appearance and function of the garden.

Relevant Planning Policies:

The relevant policy of the **Midlothian Local Development Plan 2017** is;

DEV2 – Protecting amenity within the built-up area - seeks to protect the character and amenity of the built-up area.

Planning Issues:

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval.

The surrounding area is predominantly characterised by houses set back from the road behind front and side gardens with 1m high fences or walls along the street frontage. The relatively open front and side gardens contribute to the pleasant character of the area.

Located at a corner plot, at its current height and position, including close to the pavement and extending beyond the front building line of the application property, the fence is very prominent in the streetscape.

It is not disputed that the fence is of neat construction however it is out of character with and presents a harsh frontage in the street scene with a detrimental impact on the visual amenity of the surrounding area.

The trellis is set behind, and screened from public view in part by, the fence and is less solid as compared to the fence. It does not have such a significant impact on the visual amenity of the area as compared to the fence, however with the removal of the fence it would be prominent in the street scene similarly appearing as an incongruous feature.

If approved, the fence, including the trellis, could set an undesirable precedent for other similar fences along the street frontage which would lead to the degradation of the character and appearance of the street.

The applicant has mentioned other fences at Mavisbank although has not made clear their exact location. There is a 1.8m (approx.) high fence along the side and rear boundary of no. 69 Mavisbank. There is no record of planning permission having been granted for this back to 1975. He mentions a fence at the entrance to Mavisbank. There is a 1.8m (approx.) high fence along the side and northeast boundary of 22 Polton Road. Whilst prominent it is set back from the pavement behind a grassed area at the side. There is no record of planning permission having been granted for this back to 1975.

Whilst not as immediate, a densely planted hedge could provide a barrier to trespassers and would appear as a softer feature in the street scene more in keeping with the character of the area and, dependent on the species, would only require trimming once or twice a year. A smaller bin store would prevent bins being blown over.

The fence does not have a significant impact on the amenity of neighbouring properties. Any issues in relation to vermin and health arising from the use of the garden should be reported to the Councils Environmental Health section.

Recommendation:

Refuse planning permission



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 19/00159/DPP

Mr Paul Black
26 Mavisbank
Loanhead
EH20 9DD

Midlothian Council, as Planning Authority, having considered the application by Mr Paul Black, 26 Mavisbank, Loanhead, EH20 9DD, which was registered on 27 February 2019 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of fence (retrospective) at 26 Mavisbank, Loanhead, EH20 9DD

In accordance with the application and the following documents/drawings:

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	27.02.2019
Site Plan		27.02.2019
Site Plan		27.02.2019
Illustration/Photograph		27.02.2019
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Other Statements		27.02.2019

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

1. The fence is a very prominent feature, out of character with, and presenting a harsh frontage in, the street scene with a detrimental impact on the visual amenity of the surrounding area and character of Mavisbank.
2. For the above reason the fence is contrary to the aims of policy DEV 2 of the adopted Midlothian Local Development Plan 2017 which seeks to protect the character and amenity of the built-up area.

Dated 3 / 4 / 2019

A handwritten signature in black ink, appearing to be 'DR' with a stylized flourish.

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