

# Notice of meeting and agenda



## Local Review Body

**Venue:** Council Chambers, Midlothian House, Dalkeith, EH22 1DN

**Date:** Tuesday, 21 November 2017

**Time:** 14:00

**John Blair**  
Director, Resources

**Contact:**

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: [mike.broadway@midlothian.gov.uk](mailto:mike.broadway@midlothian.gov.uk)

**Further Information:**

This is a meeting which is open to members of the public.

**Audio Recording Notice:** Please note that this meeting will be recorded. The recording will be publicly available following the meeting. The Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

## **1 Welcome, Introductions and Apologies**

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## **2 Order of Business**

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Including notice of new business submitted as urgent for consideration at the end of the meeting.

## **3 Declarations of Interest**

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Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **4 Minutes of Previous Meeting**

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- |            |   |              |
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| <b>4.1</b> | Minutes of Meeting held on 10 October 2017 - For Approval | <b>3 - 8</b> |
|------------|---|--------------|

## **5 Public Reports**

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Decision Notices: -

- |            |   |               |
|------------|---|---------------|
| <b>5.1</b> | Land rear of 180 Main Street, Pathhead 17/00420/DPP | <b>9 - 12</b> |
|------------|---|---------------|

- |            |  |                |
|------------|--|----------------|
| <b>5.2</b> | 13 Burnbrae Crescent, Bonnyrigg 17/00292/DPP | <b>13 - 16</b> |
|------------|--|----------------|

Notice of Review Requests Considered for the First Time – Reports by Head of Communities and Economy:-

- |            |  |                |
|------------|--|----------------|
| <b>5.3</b> | 61A Clerk Street, Loanhead 17.00363.DPP - Determination Report | <b>17 - 36</b> |
|------------|--|----------------|

- |            |   |                |
|------------|---|----------------|
| <b>5.4</b> | 2A Nivensknowe Road, Loanhead 17.00404.S42 - Determination Report | <b>37 - 64</b> |
|------------|---|----------------|

- |            |   |                 |
|------------|---|-----------------|
| <b>5.5</b> | 29 Waverley Road, Bonnyrigg 17.00440.DPP - Determination Report | <b>65 - 112</b> |
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## **6 Private Reports**

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No private reports to be discussed at this meeting.

Plans and papers relating to the applications on this agenda can also be viewed online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk).

# Minute of Meeting



## Local Review Body

Date	Time	Venue
10 October 2017	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

### Present:

Councillor Imrie (Chair)	Councillor Cassidy
Councillor Lay-Douglas	Councillor Milligan
Councillor Muirhead	Councillor Munro
Councillor Smail	

## 1 Apologies

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Apologies received from Councillor Alexander, Baird and Montgomery

## 2 Order of Business

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The order of business was confirmed as outlined in the agenda that had been previously circulated.

## 3 Declarations of interest

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Councillor Munro indicated that in accordance with the agreed procedures as he had been unable to attend the Site Inspection Visits, he would not participate in consideration of either of the Review Requests.

## 4 Minutes of Previous Meetings

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The Minutes of Meeting of 29 August 2017 were submitted and approved as a correct record.

## 5 Reports

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Agenda No	Report Title	Presented by:
5.1	Decision Notice – Unit 33/1, Mayfield Industrial Estate, Mayfield, Dalkeith [17/00390/DPP].	Peter Arnsdorf
<b>Executive Summary of Report</b>		
With reference to paragraph 5.5 of the Minutes of 29 August 2017, there was submitted a copy of the Local Review Body decision notice upholding a review request from Mr J Wynne, Spartan Gym, Unit 33/1, Mayfield Industrial Estate, Mayfield, Dalkeith seeking a review of the decision of the Planning Authority to refuse planning permission (17/00390/DPP, refused on 23 June 2017) for the change of use from general industry (class 5) to bodybuilding gym (class 11) (retrospective) at that address and granting planning permission subject to conditions.		
<b>Decision</b>		
To note the LRB decision notice.		

Agenda No	Report Title	Presented by:
5.2	Decision Notice – 35 Temple, Gorebridge [17/00275/DPP].	Peter Arnsdorf

### Executive Summary of Report

With reference to paragraph 5.6 of the Minutes of 29 August 2017, there was submitted a copy of the Local Review Body decision notice upholding a review request from John Gordon, John Gordon Associates Ltd, 3 Dean Acres, Comrie, Dunfermline seeking on behalf of their client Mr A Matthews, a review of the decision of the Planning Authority to refuse planning permission (17/00275/DPP, refused on 17 May 2017) for the installation of replacement windows at 35 Temple, Gorebridge and granting planning permission subject to conditions.

### Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.3	Decision Notice – The Abbey Granary, 12 Newbattle Road, Newtongrange [17/00371/DPP]	Peter Arnsdorf

### Executive Summary of Report

With reference to paragraph 5.7 of the Minutes of 29 August 2017, there was submitted a copy of the Local Review Body decision notice upholding a review request from David Paton Building Consultancy, 13 High Street, Loanhead seeking, on behalf of their client Mr A Mohammed, removal of Condition 5 of planning permission 17/00371/DPP, granted on 7 July 2017, for the change of use of public house to a mixed use of public house, restaurant and take away at The Abbey Granary, 12 Newbattle Road, Newtongrange and granting planning permission subject to conditions.

### Decision

To note the LRB decision notice.

### Sederunt

Councillor Milligan rejoined the meeting at the conclusion of the foregoing item of business at 2.02 pm but as he had been unable to attend the Site Inspection Visits, he did not participate in consideration of either of the following Review Requests..

Agenda No	Report Title	Presented by:
5.5	Notice of Review Request Considered for the First Time – Land rear of 180 Main Street, Pathhead [17/00420/DPP].	Peter Arnsdorf

### Executive Summary of Report

There was submitted report, dated 28 September 2017, by the Head of Communities and Economy regarding an application from Mr H Crawford, Sir Frank

Mears Associates, Lochrin Buildings, 12-14 Gilmore Place, Edinburgh seeking on behalf of their client, Mr M McIntosh a review of the decision of the Planning Authority to refuse planning permission (17/00420/DPP, refused on 7 July 2017) for the erection of a garage at land to the rear of 180 Main Street, Pathhead.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an unaccompanied visit to the site on Monday 9 October 2017.

### Summary of Discussion

Having heard from the Planning Adviser, who responded to Members questions, the LRB gave careful consideration to the merits of the case based on all the written information provided. In particular, consideration was given to the potential impact of the proposed development on the neighbouring properties and also whether there was a potential for this proposal to lead to a further proposal for a residential development. Concerns were also expressed about the current condition of the application site which was unsightly, albeit it was acknowledged that it would be possible to address this regardless of the outcome of the current application/review request.

After further discussion, Councillor Smail, seconded by Councillor Lay-Douglas, moved to uphold the review request and to grant planning permission subject to the conditions detailed in the report, together with additional conditions regard use of the application site being strictly for non residential/non commercial purposes, and also the application site and surrounding area being tidied up and thereafter kept in a tidy and orderly manner.

As an amendment, Councillor Muirhead, seconded by Councillor Cassidy, moved to dismiss the review request and to refuse planning permission for the reasons detailed in the case officers report.

On a vote being taken, two Members voted for the motion and three for the amendment which accordingly became the decision of the meeting.

### Decision

To agreed to dismiss the review request, and uphold the decision to refuse planning permission for the following reasons:-

1. The proposed development would not be connected to a nearby residential property and would therefore be used as general storage which would not be appropriate in this residential area as it would have a detrimental impact on the amenity of nearby residential properties.
2. The proposed dormer window offers potential for overlooking and the perception of overlooking to the significant detriment of the amenity of nearby residential properties.

3. The proposed dormer window is bulky and unattractive and its size does not comply with the related Supplementary Planning Guidance for dormer windows.
4. For the above reasons, the proposed development will adversely impact on the character, appearance and amenity of the area and therefore the proposed development is contrary to policy RP20 of the adopted Midlothian Local Plan and policy DEV2 of the emerging Midlothian Local Development Plan.

### Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.6	Notice of Review Request Considered for the First Time – 13 Burnbrae Crescent, Bonnyrigg [17/00292/DPP]	Peter Arnsdorf

### Executive Summary of Report

There was submitted report, dated 28 September 2017, by the Head of Communities and Economy regarding an application from Scott Allan, 36 Wallace Avenue, Wallyford seeking on behalf of their client Mr S Ramsay, a review of the decision of the Planning Authority to refuse planning permission (17/00292/DPP, refused on 2 June 2017) for the erection of a two storey extension at 13 Burnbrae Crescent, Bonnyrigg.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an unaccompanied visit to the site on Monday 9 October 2017.

### Summary of Discussion

Having heard from the Planning Advisor, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In particular, consideration was given to the likely impact of the proposed development on the neighbouring properties and also because of its positioning the impact on the existing garage and provision for off-street parking.

### Decision

To agreed to dismiss the review request, and uphold the decision to refuse planning permission for the following reasons:-

1. The proposed extension would be an overly dominant feature with an overbearing impact on the outlook of no. 12 Burnbrae Crescent, to the detriment of the amenity of the occupiers of this property.

2. The proposed extension would result in direct overlooking of no. 12 Burnbrae Crescent to the detriment of the amenity of the occupiers of this property.
3. For the above reason the proposal is contrary to policies RP20 and DP6 of the Midlothian Local Plan which seek to protect the amenity of residential areas and require that in providing additional space for the existing buildings there should be no material loss of amenity for adjoining houses. If the proposals were approved it would undermine the consistent implementation of these policies.
4. The proposed development would result in the loss of onsite parking potential which would have a detrimental impact on local on-street parking and local amenity.
5. The proposed extension by means of its siting in relation to the existing garage building will result in an incongruous built form which will be detrimental to the local streetscape contrary to policies RP20 and DP6 of the Midlothian Local Plan and policy DEV2 of the proposed Midlothian Local Development Plan.

#### Action

Head of Communities and Economy

The meeting terminated at 2.19 pm.

## Local Review Body: Review of Planning Application Reg. No. 17/00420/DPP

Sir Frank Mears Associates  
Lochrin Buildings  
12-14 Gilmore Place  
Edinburgh  
EH3 9NB

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Malcolm McIntosh, 176, 15 Mitchell Street, Dalkeith, EH22 1JQ, which was registered on 4 September 2017 in pursuance of their powers under the above Act, hereby **refuse** permission to carry out the following proposed development:

**Erection of garage (part retrospective) at land to rear of 180 Main Street, Pathhead,** in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	24.05.2017
Site Plan	MMP/1 1:200	24.05.2017
Elevations, Floor Plan And Cross Section	MMP/2 1:50	24.05.2017
Proposed Elevations	MMP/3 1:50	24.05.2017
Proposed Elevations	MMP/4 1:100 1:50	24.05.2017
Other Statements		24.05.2017

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

1. *The proposed development would not be connected to a nearby residential property and would therefore be used as general storage which would not be appropriate in this residential area as it would have a detrimental impact on the amenity of nearby residential properties.*
2. *The proposed dormer window offers potential for overlooking and the perception of overlooking to the significant detriment of the amenity of nearby residential properties.*
3. *The proposed dormer window is bulky and unattractive and its size does not comply with the related Supplementary Planning Guidance for dormer windows.*

4. *For the above reasons, the proposed development will adversely impact on the character, appearance and amenity of the area and therefore the proposed development is contrary to policy RP20 of the adopted Midlothian Local Plan and policy DEV2 of the emerging Midlothian Local Development Plan.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 10 October 2017. The LRB carried out a site visit on the 9 October 2017.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

Development Plan Policies:

1. RP20 Midlothian Local Plan – Development within the built-up area
2. RP22 Midlothian Local Plan – Conservation areas
3. DEV2 Proposed Midlothian Local Development Plan - Protecting amenity within the built-up area
4. ENV19 Proposed Midlothian Local Development Plan - Conservation areas

Material considerations:

1. The individual circumstances of the proposal
2. The use of the land

Dated: 10/10/2017



Peter Arnsdorf  
Planning Manager (Advisor to the Local Review Body)  
Communities and Economy  
Midlothian Council

On behalf of:

Councillor R Imrie  
Chair of the Local Review Body  
Midlothian Council

# NOTICE TO ACCOMPANY REFUSAL ETC.

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

***Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or***

***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997.

### ***Important Advisory Note:***

***The partially erected building on site does not benefit from planning permission and as such shall be demolished and the resulting material removed from the site – the Council will contact you separately under its Planning Enforcement powers regarding this breach of planning control.***

***Furthermore, the vehicles and parts thereof, building materials and equipment and other items stored on the site without the benefit of planning permission shall be removed – the Council will contact you separately under its Planning Enforcement powers regarding this breach of planning control.***

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



## Local Review Body: Review of Planning Application Reg. No. 17/00292/DPP

Scott Allan  
36 Wallace Avenue  
Wallyford  
East Lothian  
EH21 8BZ

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Shaun Ramsay, 13 Burnbrae Crescent, Bonnyrigg, EH19 3FQ, which was registered on 1 August 2017 in pursuance of their powers under the above Act, hereby **refuse** permission to carry out the following proposed development:

**Erection of two storey extension at 13 Burnbrae Crescent, Bonnyrigg**, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	2016-36-000 1:1250	18.04.2017
Elevations, floor plan and cross section	2016-36-001 1:1250 1:500 1:100 1:50 1:10	18.04.2017

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

1. *The proposed extension would be an overly dominant feature with an overbearing impact on the outlook of no. 12 Burnbrae Crescent, to the detriment of the amenity of the occupiers of this property.*
2. *The proposed extension would result in direct overlooking of no. 12 Burnbrae Crescent to the detriment of the amenity of the occupiers of this property.*
3. *For the above reasons the proposal is contrary to policies RP20 and DP6 of the Midlothian Local Plan and policy DEV2 of the proposed Midlothian Local Development Plan which seek to protect the amenity of residential areas and require that in providing additional space for the existing building there should be no material loss of amenity for adjoining houses. If the proposal were approved it would undermine the consistent implementation of these policies.*

4. *The proposed development would result in the loss of onsite parking potential which would have a detrimental impact on local on-street parking and local amenity.*
5. *The proposed extension by means of its siting in relation to the existing garage building will result in an incongruous built form which will be detrimental to the local streetscape contrary to policies RP20 and DP6 of the Midlothian Local Plan and policy DEV2 of the proposed Midlothian Local Development Plan.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 10 October 2017. The LRB carried out a site visit on the 9 October 2017.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

Development Plan Policies:

1. RP20 Midlothian Local Plan – Development within the built-up area
2. DP6 Midlothian Local Plan – House extensions
3. DEV2 Proposed Midlothian Local Development Plan - Protecting amenity within the built-up area

Material considerations:

1. The individual circumstances of the proposal
2. The potential impact on neighbouring properties

Dated: 10/10/2017



Peter Arnsdorf  
Planning Manager (Advisor to the Local Review Body)  
Communities and Economy  
Midlothian Council

On behalf of:

Councillor R Imrie  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997.

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



## **Notice of Review: 61A Clerk Street, Loanhead**

### **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 from Chiropodist (class 2) to dwellinghouse (class 9) at 61A Clerk Street, Loanhead.

#### **2 Background**

- 2.1 Planning application 17/00363/DPP for the change of use from Chiropodist (class 2) to dwellinghouse (class 9) at 61A Clerk Street, Loanhead was refused planning permission on 18 September 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 18 September 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](http://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 one consultation response and no representations have been received. As part of the review process the interested party was 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](http://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 17/00363/DPP is available for inspection online.

# APPENDIX A



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

61A Clerk Street, Loanhead, EH20 9RE

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File No.: 17/00363/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](mailto: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 100051121-003

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

## Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="DM Hall"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Calum"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Allmond"/>	Building Number:	<input type="text" value="27"/>
Telephone Number: *	<input type="text" value="01383621262"/>	Address 1 (Street): *	<input type="text" value="Canmore Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Dunfermline"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="KY12 7NU"/>
Email Address: *	<input type="text" value="calum.allmond@dmhall.co.uk"/>		

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

☐ Individual ☒ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Winchester House
First Name: *	Nick	Building Number:	259-269
Last Name: *	Sneddon	Address 1 (Street): *	Suite 1.05B
Company/Organisation	Full Speed Ahead Finance	Address 2:	Old Marylebone Road
Telephone Number: *	03303338704	Town/City: *	London
Extension Number:		Country: *	England
Mobile Number:		Postcode: *	NW1 5RA
Fax Number:			
Email Address: *	nick@fsafinance.com		

## Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	61A CLERK STREET
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	LOANHEAD
Post Code:	EH20 9RE

Please identify/describe the location of the site or sites

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Northing	665642	Easting	328168
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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 Chiropodist (Class 2) to dwellinghouse (Class 9) at 61A Clerk Street, Loanhead, EH20 9RE

## 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.

Cannot serve its original purpose as a commercial building. No visible shopfront is undesirable for prospective commercial owner. Property is not easy to access which would discourage patrons and made deliveries difficult. Property is ideal for town centre affordable housing. Amenity may not meet the full requirement but garden ground is available. Proximity to PH would be clear to any prospective buyer. The building would fall into disuse and further disrepair if the use was not changed.

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)

1. Supporting Statement 2. Access Plan 3. Copy of Decision Notice 4. Copy of existing and proposed floor plans and elevations 5. Copy of original application form

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

17/00363/DPP

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

31/07/2017

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

18/09/2017

## 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

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

The site is difficult to find and therefore we will provide a plan showing access.

## 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 Calum Allmond

Declaration Date: 21/09/2017

**Statement to support the appeal of Planning Permission refusal for application 17/00363/DPP**

**61a Clerk Street, Loanhead, EH20 9RE**

The building has not been used in a commercial manor for many years. Although the building is in the town centre the building has no shop front so would not be a desirable premises for retail use. It is also insufficient size to create viable commercial premises. The property is not easily accessed which would discourage most patrons and make deliveries difficult to organise.

The property is ideally suited to serve as affordable town centre housing. Although the amenity does not meet the full requirement there is garden ground available. The properties proximity to a public house would be clear to any prospective buyer.

If the property is not permitted to be used as a private dwelling it will fall into a state of further disuse and disrepair.

In summary, we strongly believe that the best use of this property would be as affordable housing, either a town centre base or a first time buyer's property.

**Refusal of Planning Permission**

Town and Country Planning (Scotland) Act 1997

**Reg. No. 17/00363/DPP**

DM Hall  
27 Canmore Street  
Dunfermline  
KY12 7NU

Midlothian Council, as Planning Authority, having considered the application by Mr Nick Sneddon, Winchester House, 259-269 Suite 1.05B, Old Marylebone Road, London, NW1 5RA, which was registered on 31 July 2017 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Change of use from Chiropodist (class 2) to dwellinghouse (class 9) at 61A Clerk Street, Loanhead, EH20 9RE**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Existing Floor Plan	1 1:500 1:50	31.07.2017
Existing Elevations	2 1:500 1:100	31.07.2017
Proposed Floor Plan	3 1:1250 1:50	31.07.2017
Proposed Elevations	4 1:50	31.07.2017
Proposed Elevations	5 1:50	31.07.2017

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

*As a result of the close proximity of a public house and associated beer garden, very poor outlook and low levels of private amenity space, the proposed dwelling would be subject to seriously low levels of amenity which do not comply with policies RP20 and DP2 of the adopted Midlothian Local Plan.*

Dated 18 / 9 / 2017



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



**The Coal  
Authority**

**Any Planning Enquiries should be directed to:**

Planning and Local Authority Liaison  
Direct Telephone: 01623 637 119  
Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)  
Website: [www.gov.uk/government/organisations/the-coal-authority](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](http://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](http://www.gov.uk/government/organisations/the-coal-authority)

*This Informative Note is valid from 1<sup>st</sup> January 2017 until 31<sup>st</sup> December 2018*

**MIDLOTHIAN COUNCIL****DEVELOPMENT MANAGEMENT  
PLANNING APPLICATION DELEGATED WORKSHEET:****Planning Application Reference:** 17/00363/DPP**Site Address:** 61A Clerk Street, Loanhead.

**Site Description:** The application site comprises a two storey building with a single storey element and area of ground to the rear of the properties at Clerk Street. The walls are harled and painted cream and the roof is finished with slate. The single storey building has a monopitched roof and is currently in use as a garage. The two storey building was previously used as a chiropodist clinic and is now vacant. The site is accessed by a vennel from Clerk Street and there is access from the rear through a coachwork business. There are a variety of uses in the surrounding area, with a public house and associated beer garden to the south, commercial units to the north along with a number of flatted dwellings.

**Proposed Development:** Change of use from Chiropodist (class 2) to dwellinghouse (class 9).

**Proposed Development Details:** It is proposed to change the use of the building to one house. The only external alterations are the formation of two window openings on the single storey area of the south elevation.

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

Application site

16/00486/DPP Change of use from Business (class 4) to dwellinghouse (class 9) and associated external alterations. Refused – the flat would have a poor outlook and low levels of private amenity space; the proposal would likely exacerbate existing on-street parking problems in the area; the proposed dormer window was bulky, box-like and unsympathetic to the building; does not comply policies RP20, DP2 and related SPG.

**Consultations:** The Policy and Road Safety Manager has no objection in principle but notes that while there is no off-street parking provided, the residential unit would have access to the existing garage which could be used as a residential parking space.

**Representations:** No representations were received.

**Relevant Planning Policies:** The relevant policies of the 2008 Midlothian Local Plan are;

**RP20 Development Within the Built Up Area** states that development will not be permitted within existing built up areas where it is likely to detract materially from the existing character or amenity of the area;

**SHOP1 Town Centres** states that development proposals bringing about an improvement to the range and quality of retail facilities in town centres will be considered favourably. Given the nature of the proposed works, this policy is not considered relevant; and

**DP2 Development Guidelines** sets out guidelines for residential developments, indicating standards that should be applied when considering applications for such units.

The relevant policies of the **2014 Midlothian Local Development Plan Proposed Plan** are;

**DEV2 Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area;

**DEV6 Layout and Design of New Development** sets out design guidance for new developments; and

**TCR1 Town Centres** states that proposals for retail, commercial leisure development or other uses which will attract significant numbers of people, will be supported in Midlothian's town centres, provided their scale and function is consistent with the town centre's role,

**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.

As the application site is located within the built up area, there is a presumption in favour of development provided that the proposal complies with related local plan policies and would not have a detrimental impact on the character or amenity of the surrounding area. The main consideration for this proposal is the amenity provided for proposed and existing occupants of the area.

The submitted plans show there to be an area of garden ground provided for the proposed unit, measuring approximately 70 square metres. Policy DP2 requires that new dwellinghouses be provided with 130 square metres of amenity ground. Whilst this policy requires the provision of private outdoor space for new residential development, where an existing building is to be re-developed it can sometimes be appropriate to make allowance for the constraints of the particular site, if the amenity of the properties created and the overall quality of the development are otherwise of a high standard.

The proposed residential unit will have an extremely poor outlook, with a public house and its associated beer garden and smoking shelter in very close proximity to the south, with the north elevation hard up to the boundary in close proximity to an extension to the neighbouring commercial unit. The standard of amenity associated with the development is not sufficiently high so as to mitigate against the lack of garden ground.

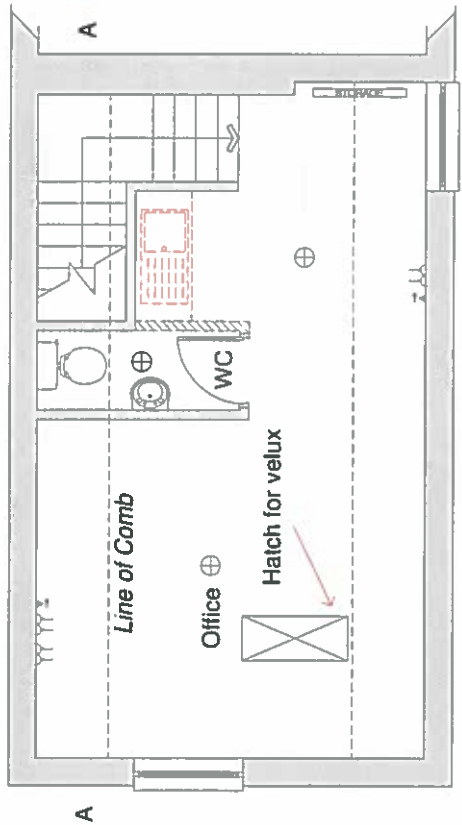
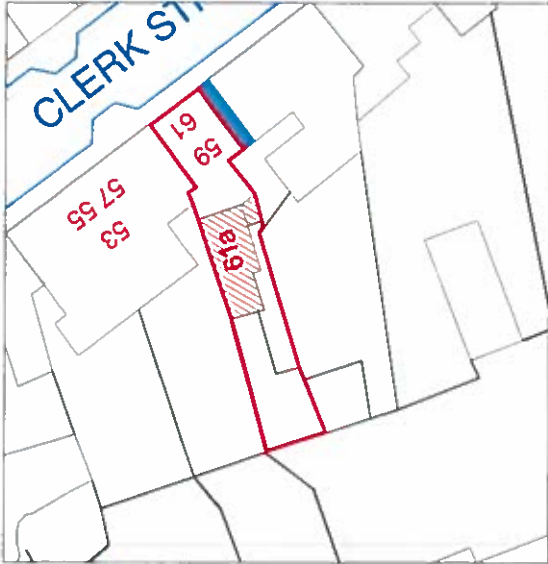
The formation of the new window opening on the ground floor of the south elevation would be acceptable in design terms however the resulting adverse impact on the amenity of the future residents as a result of the close proximity of the beer garden would be significant.

Although the proposal does not fully address the required amount of residential and visitor parking, the plans indicate that the existing garage would remain which could provide one residential space. The site is within a town centre location with good access to public transport which could mitigate for the lack of full compliance with parking standards.

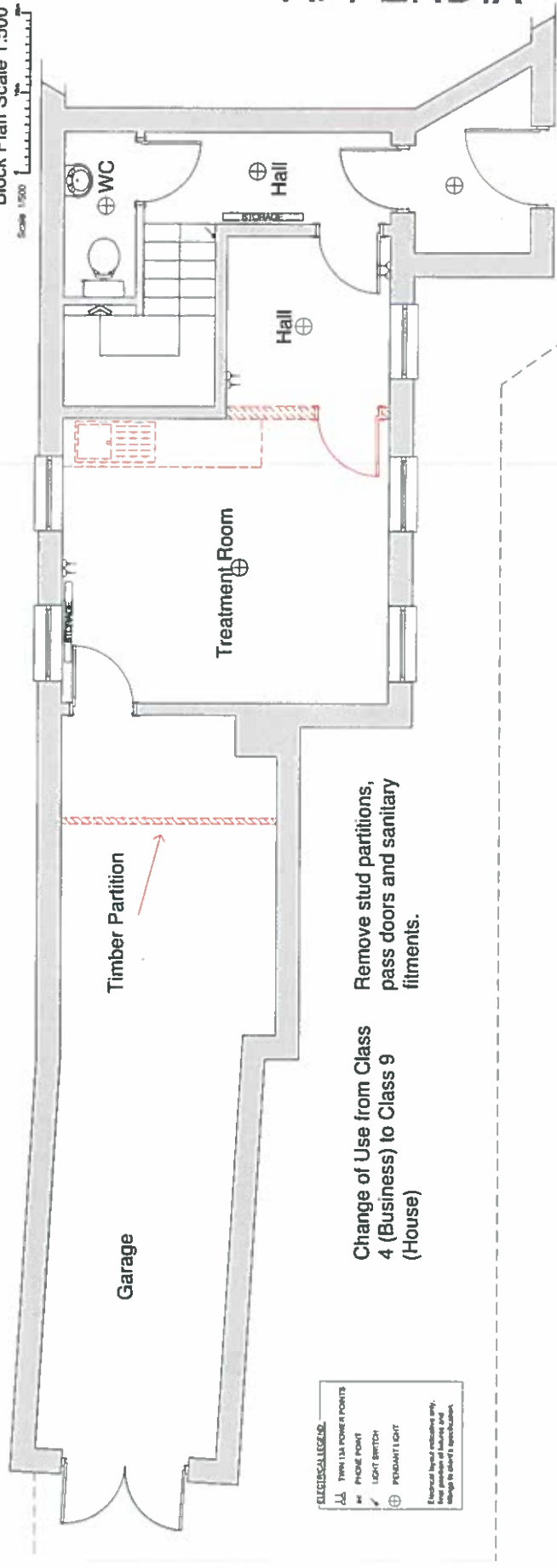
The applicant appears to have reviewed the reasons for refusing the previous application at the site and amended the current proposal accordingly. However any future occupant of the flat would be offered a very poor level of amenity even when some concerns have been addressed. Given the poor levels of amenity at the property it is highly unlikely that planning permission could be secured for the change of use of this unit to living accommodation, with its most appropriate use remaining as a commercial unit.

**Recommendation:** Refuse planning permission.

<b>DM HALL</b> 27 CANMORE STREET DUNFERMLINE KY12 7NU TEL: 01593 821282 FAX: 01593 821282	
PROJECT 61a Clerk Street Loanhead EH20 9RE	
EXISTING FLOOR LAYOUT	
I hereby certify that this is the plan referred to in the foregoing application for Local Authority permission	
Signed	Dated
PP-17-00227	A3
DATE	SCALE
01/07/16	1:50
CA	1
Revision	



Existing First Floor Plan Scale 1:50



Existing Ground Floor Plan Scale 1:50

**ELECTRICAL LEGEND**

⏏	THREE 13A POWER POINTS
⚡	PHONE POINT
⚡	LIGHT SWITCH
⚡	PERMANENT LIGHT

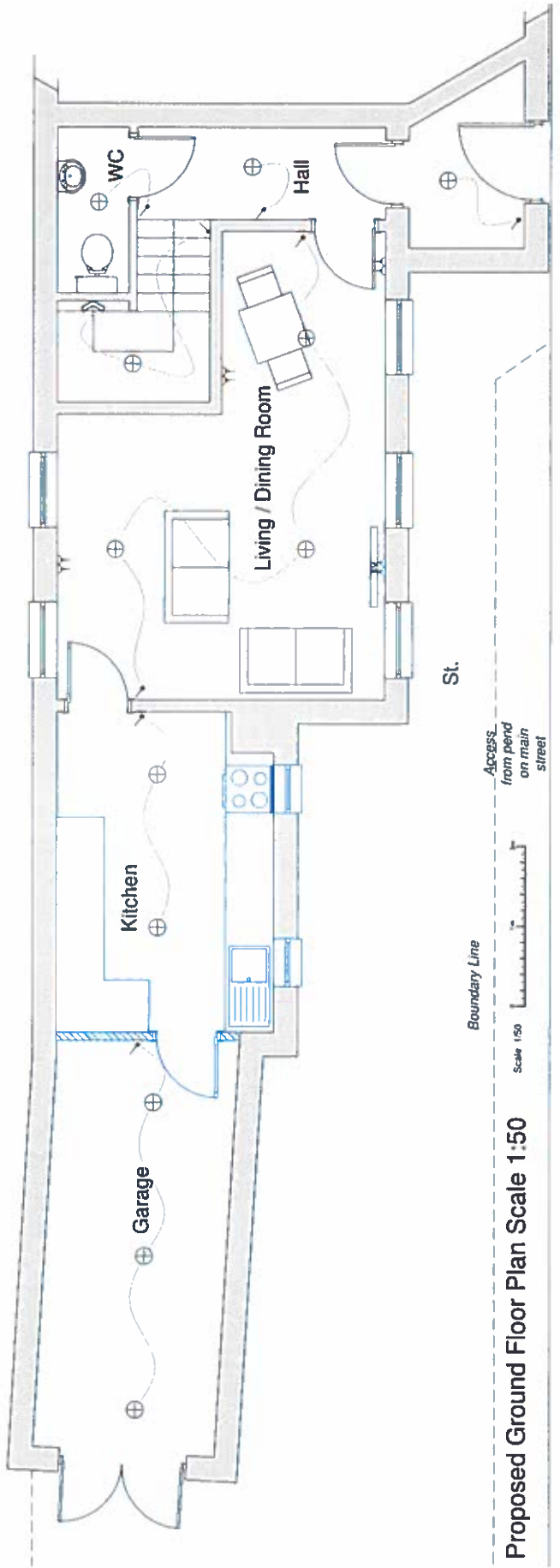
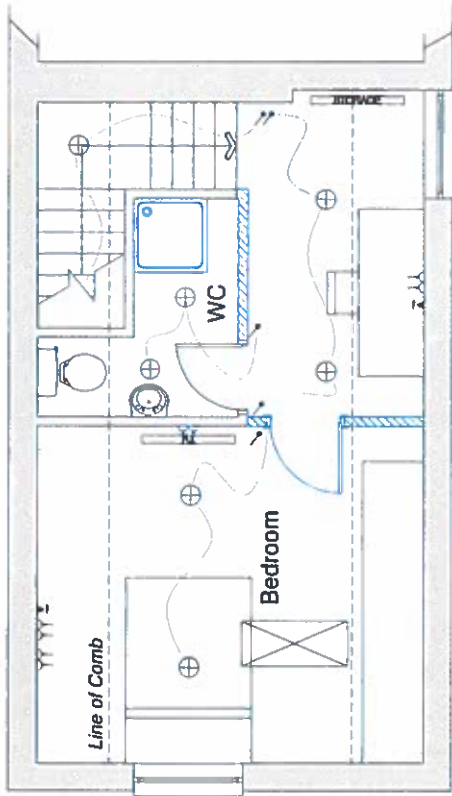
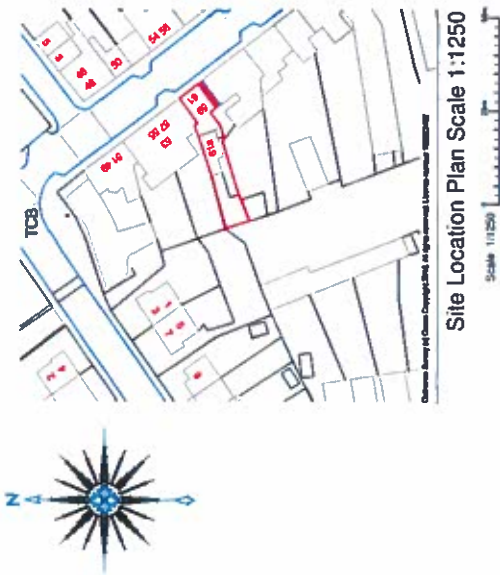
Electrical layout indicates only. See partition of building and design to client's specification.

Change of Use from Class 4 (Business) to Class 9 (House)

Remove stud partitions, pass doors and sanitary fittings.

<b>DM HALL</b> 27 CANMORE STREET DUNFERMLINE KY12 7NU TEL: 01333 631262 FAX: 01333 631262	
Project: 81a Clerk Street Loanhead EH20 9RE	
PROPOSED FLOOR LAYOUT	
I hereby certify that this is the plan referred to in the foregoing application for Local Authority permission	
Signed	Dated
Titled FR-17-00237 A3	Scale 1:50 2

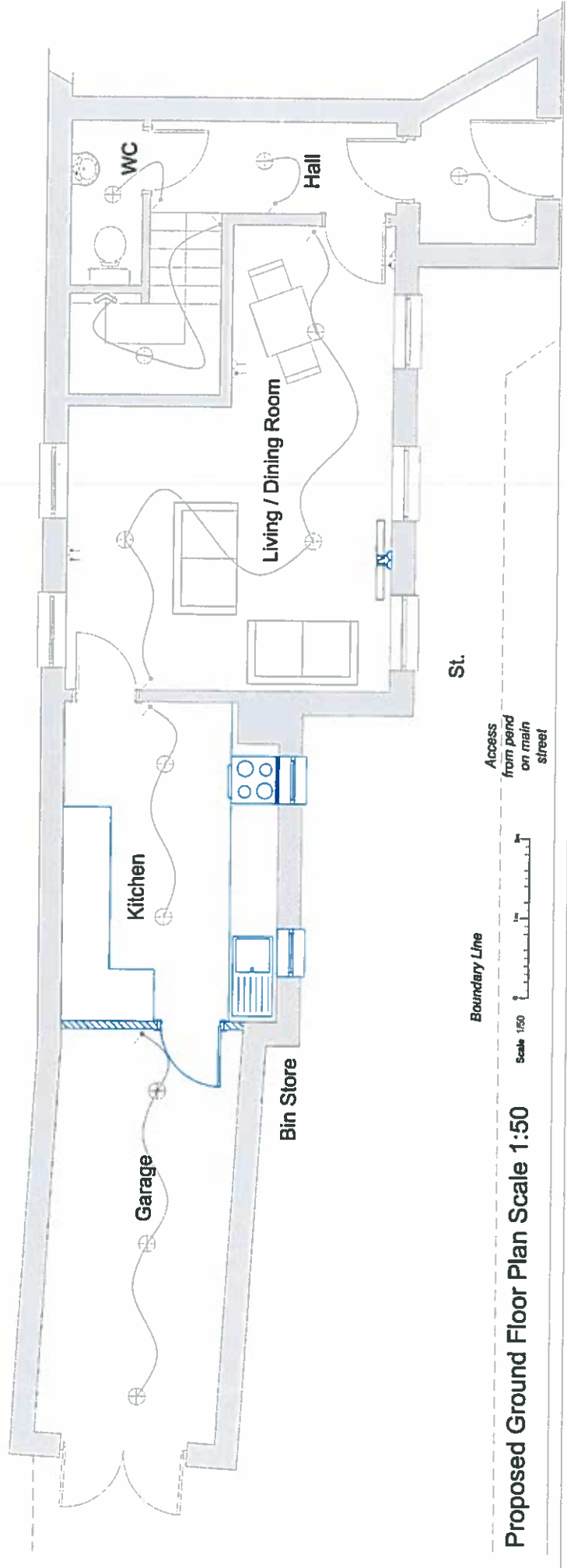
ALL WORKS TO BE READ IN CONJUNCTION WITH & IN COMPLIANCE WITH THE SCOTTISH BUILDING STANDARDS TECHNICAL HANDBOOK LATEST EDITION.



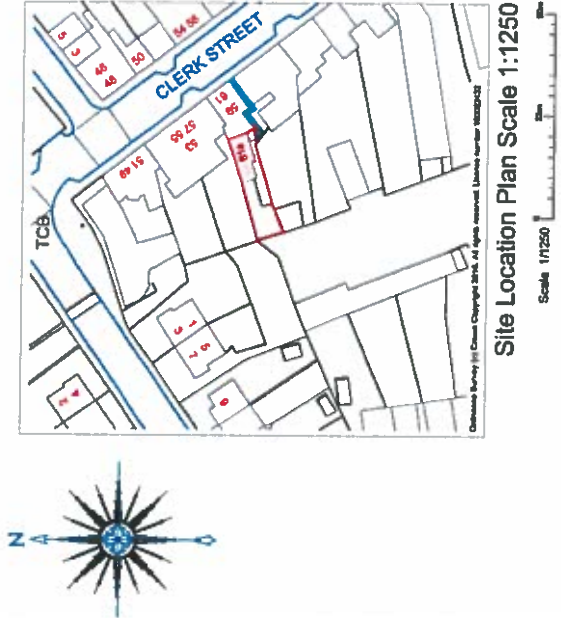
<b>DM HALL</b> 27 CANMORE STREET DUNFERMLINE KY12 7NU TEL: 01343 621262 FAX: 01343 621262 61a Clark Street Loanhead EH20 8RE	
<b>PROPOSED FLOOR LAYOUT</b>	
I hereby certify that this is the plan referred to in the foregoing application for Local Authority permission	
Signed _____ Date _____ Title _____	A3 Date _____ Scale _____ No. _____ 2

ALL WORKS TO BE READ IN CONJUNCTION WITH & IN COMPLIANCE WITH THE SCOTTISH BUILDING STANDARDS TECHNICAL HANDBOOK LATEST EDITION.

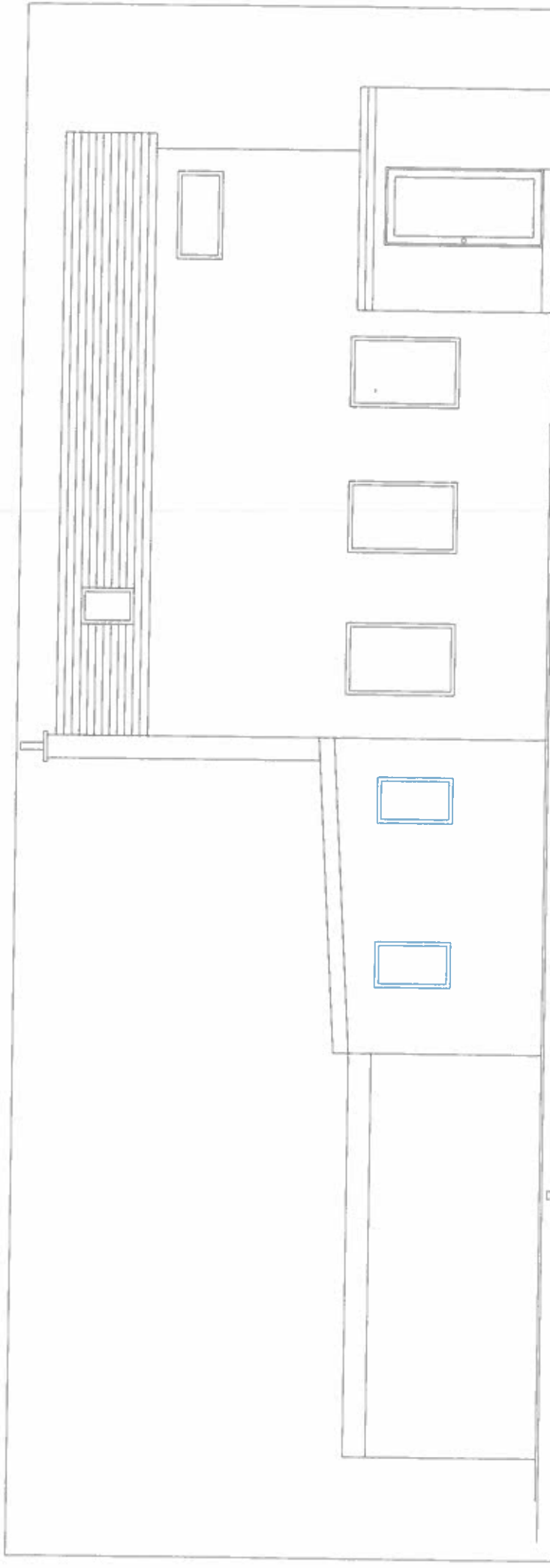
Proposed First Floor Plan Scale 1:50



Proposed Ground Floor Plan Scale 1:50



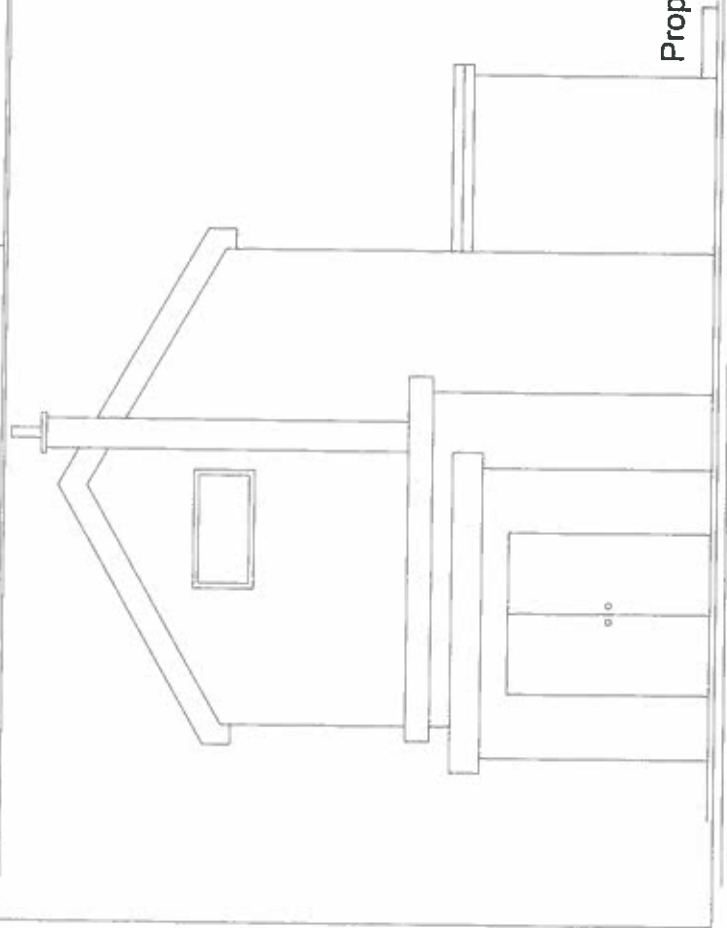
Site Location Plan Scale 1:1250



Proposed South Elevation Scale 1:50

<b>DM HALL</b> <small>DESIGN + ARCHITECTURE</small> 27 CANMORE STREET DUNFERMLINE FIFE KY12 7NU TEL: 01383 621282 FAX: 01383 621282 PROJECT:		61a Clerk Street Loanhead EH20 9RE	
I hereby certify that this is the plan referred to in the foregoing application for Local Authority permission. Signed: _____ Dated: _____ Title: _____			
PP-17-00237 01/07/18 CA		A3 SHEET NO. 4 OF 4	

Proposed West Elevation Scale 1:50



Scale 1:50



## Notice of Review: 2A Nivensknowe Road, Loanhead

### 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 a Section 42 application to remove conditions 3 and 4 of planning permission 16/00497/DPP at 2A Nivensknowe Road, Loanhead.

#### 2 Background

- 2.1 Planning application 17/00404/S42 to remove conditions 3 and 4 of planning permission 16/00497/DPP at 2A Nivensknowe Road, Loanhead was refused planning permission on 7 July 2017; a copy of the decision is attached to this report. Planning application 16/00497/DPP for alterations to, and change of use of building from warehouse to vehicle maintenance and service depot, erection of gatehouse, fencing, gates, formation of hardstanding, car parking and truck wash bay (retrospective) at 2A Nivensknowe Road, Loanhead was granted planning permission subject to conditions. Condition 3 and 4 on planning permission 16/00497/DPP are as follows:
3. The proposed car parking and position of fence layout as shown on drawing numbers 002 dated 1 August 2016 and 5 September 2016 is not approved. Within 28 days of the date of this decision notice, an amended layout shall be submitted to and approved in writing by the Planning Authority. This shall set back the position of the fencing hereby approved from the heel of the pavement to an agreed position to achieve the required visibility splays and will include a landscape strip.

**Reason:** *For the avoidance of doubt; the current position of the fencing will have a detrimental impact on road safety and the character and appearance of the surrounding area.*

4. The landscaping hereby approved as per condition 3 above shall include either beech and hornbeam or mixed native non-spikey hedging to be maintained at a height no less than 1.5 metres.

**Reason:** *To ensure that change of use of this prominent site does not have a detrimental visual impact on the appearance at the edge of the industrial estate and the built up area.*

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, supporting statement and site plans (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 7 July 2017 (Appendix D); and
- A copy of the case officer's report and decision notice from planning application 16/00497/DPP (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](http://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 a hearing.

4.2 The case officer's report identified that one consultation response and no representations have been received. As part of the review process the interested party was 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](http://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**

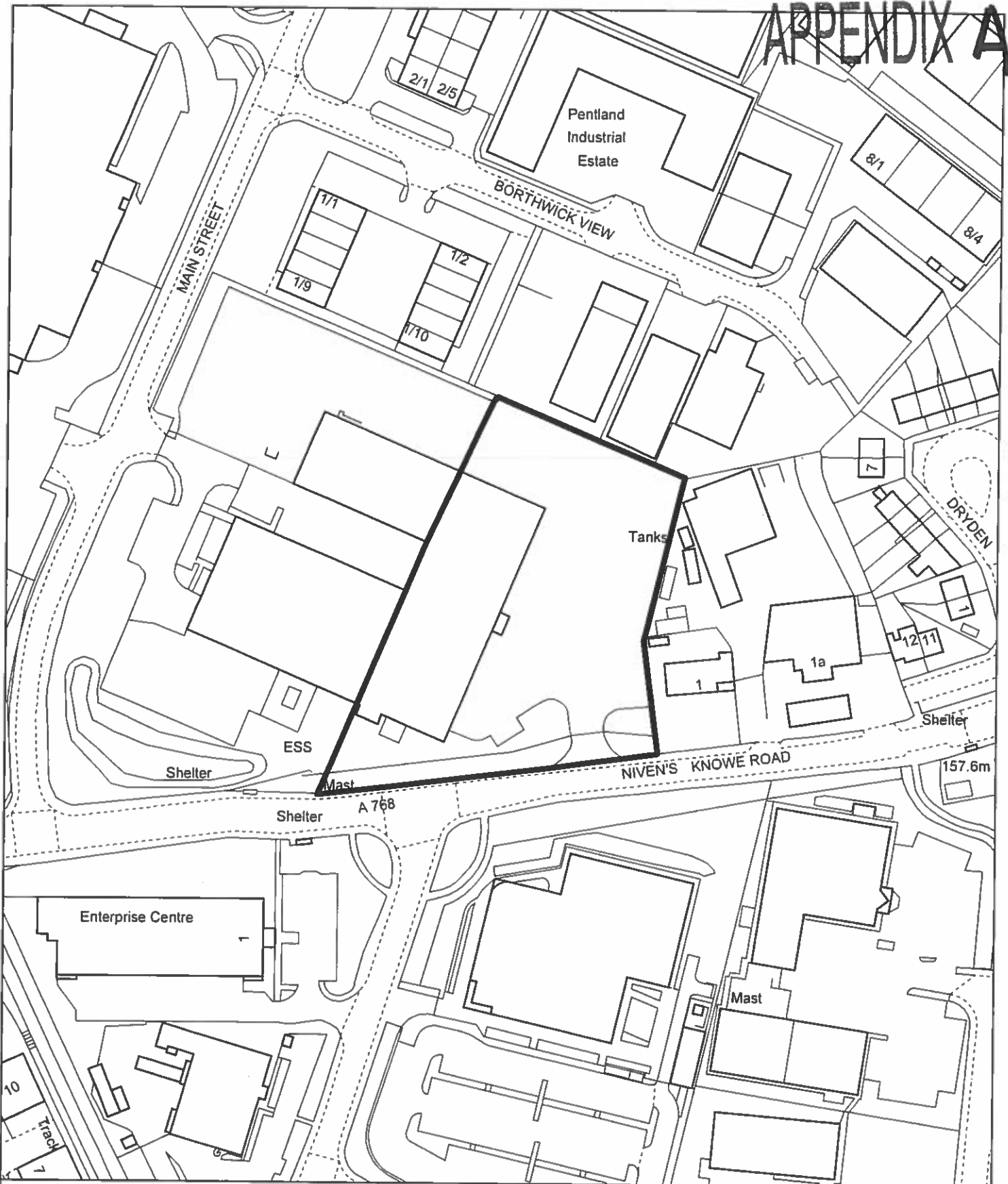
- 6.1 It is recommended that the LRB:
  - a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

**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 applications 17/00404/S42 and 16/00497/DPP are available for inspection online.



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

2A Nivensknowe Road, Loanhead

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Midlothian Council Licence No. 100023416 (2017)

File No. 17/00404/S42

Scale: 1:1,500

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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](mailto: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 100052683-002

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:	Sorrell Associates		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Jim	Building Name:	The Green House
Last Name: *	Sorrell	Building Number:	41
Telephone Number: *	0131 343 3463	Address 1 (Street): *	St Bernard's Crescent
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Scotland
		Postcode: *	EH4 1NR
Email Address: *	jimsorrell@sorrellassociates.co.uk		

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

☐ Individual ☒ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Stephen	Building Number:	2
Last Name: *	Greenhorn	Address 1 (Street): *	Jessie Street
Company/Organisation	911 Rescue & Recovery Ltd	Address 2:	
Telephone Number: *		Town/City: *	Glasgow
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	G42 0GP
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	2A NIVENSKNOWE ROAD
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	LOANHEAD
Post Code:	EH20 9QH

Please identify/describe the location of the site or sites

--	--

Northing	665312	Easting	327034
----------	--------	---------	--------

## 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)

Application to develop land by the erection of a boundary fence and associated landscaping without compliance with conditions 3 and 4 of planning permission 16/00497/DPP. The application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997

## 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.

Refer to Planning Statement

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)

GENERAL Planning Statement Location Plan Layout Plan pre-devi... APPLICATION 16/00497/DPP Proposed Site Plans, Drawing 002 (1/8/16 & Rev 5/9/16) Midlothian Transport responses, 11/8/16 & 15/9/16 Delegated Worksheet Refusal notice, 30/9/16 APPLICATION 17/00404/S42 Application form Proposed Site Plan - Drawing 002 Rev E Photo - entrance visibility Midlothian Transport response 2/6/17 Delegated Worksheet Refusal notice 7/7/17 Letter from FMG 21/07/17 Photos

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

17/00404/S42

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

21/05/2017

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

07/07/2017

## 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

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

To fully appreciate the justification for the proposal

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

So that LRB members can see for themselves 1) the business carried on by the applicants requiring the maximum site area possible, and 2) the fence and landscaping as-constructed are visually acceptable in the context of the amenity of the area.

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

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

There is no difficulty in viewing the fence and boundary treatment from outside on the street. However entry to the site is not possible without prior arrangement due to the security measures which are in place and necessary for the operation of the business. It is important for the LRB members to see inside the site.

## 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 Jim Sorrell

Declaration Date: 06/10/2017

Mr. D Christie  
911 Rescue Recovery  
2 Jessie Street  
Glasgow  
G42 0PG

Your Ref  
Our Ref Loanhead

**FMG**  
THINKING AHEAD

21<sup>st</sup> July 2017

Dear David

**Police Scotland Vehicle Recovery Scheme  
911 Rescue Recovery Loanhead Depot**

As you are now approaching six months of operating from your new depot at Loanhead, Edinburgh, I thought it appropriate to review the operational commitment made by 911 to this new facility and update you as to the police reaction.

It is worth mentioning that the situation that was presented to FMG during early 2016 in finding a replacement operator for the Edinburgh area at short notice was difficult in the extreme. To find that your company was willing and able, to step into the void was very much appreciated and only served to forge a greater working relationship, not only with FMG but also Police Scotland.

Historically there have been difficulties in arranging an appropriate response to vehicle recovery in the City of Edinburgh and the surrounding area. Not least the availability of capable recovery agents but also the desire from police to have a facility on their doorstep in Edinburgh. To find that your company was in a position to provide a temporary base at Newbridge at very short notice and ultimately move to the bespoke facility now in place at Loanhead was welcomed by all involved.

Officers from Police Scotland have already remarked favourably on the premises at Loanhead and the facilities available to them in support of their policing of the area.

Since taking over the deployment of recovery operations for FMG in Edinburgh your service has continued to improve and concomitantly grown in volume of work. In the 12 month period that 911 operated from Newbridge you averaged 290 vehicles per month moved under the police scheme. Since moving to your new premises at Loanhead earlier this year the figure is currently sitting at 300 per month. I have no doubt that as the scheme progresses and Police Scotland officers recognize the benefits available to

them at your facility this figure will continue to increase.

Unfortunately the Edinburgh area is not without its criminal element and that brings with it concerns, both from FMG and the police concerning the security of premises where vehicles are stored. Above average security applies to all vehicles recovered under the police scheme, but specifically to those involved in crime. It is clear to me that organised criminality is growing and it is reassuring that your company has recognised the need for the state of the art security measures which have been put in place at Loanhead. I am sure this would be echoed by Police Scotland. Despite the fact the Police Area Control Room facility it directly opposite your premises this would not deter some of the criminal fraternity from attempting to disrupt our operations and that of the police. So it is reassuring to know that full account was taken of this when designing and implementing the security measures now in place.

I also recognise that commercial estate is at a premium in the Edinburgh area. Despite the fact that Loanhead is a commercial business park you have managed, successfully in my opinion, to introduce a facility that is capable of dealing with the large volume of vehicles that pass through our scheme on behalf of Police Scotland, while at the same time remaining unobtrusive to your surroundings and maintaining the necessary above average security measures required by Police Scotland. This is testament to you as a forward thinking company who recognises the need to work alongside partner agencies involved in the planning and implementation processes.

In my meetings with Police Scotland personnel, it has been made clear to me that Loanhead is viewed very positively and the storage and examination facilities now available to operational police officers is second to none in the area, if not the country. The fact that you the capability to store both light and heavy vehicles along with state of the art examination facilities for both categories is welcomed by operational staff in the Edinburgh area.

My own staff have echoed these comments and highlighted that the well-designed yard is capable of coping with the large numbers of vehicles passing through the gates, many of which are held by police for examinations over lengthy periods of time. There is no doubt that the facility you have provided for both FMG and Police Scotland is first class and designed to meet the needs of future operations for many years to come.


I would take this opportunity to thank you for your continued commitment to FMG and our vehicle recovery scheme contract with Police Scotland.

Yours sincerely

Jim Dawson  
Head of Rapid Response and Network  
FMG

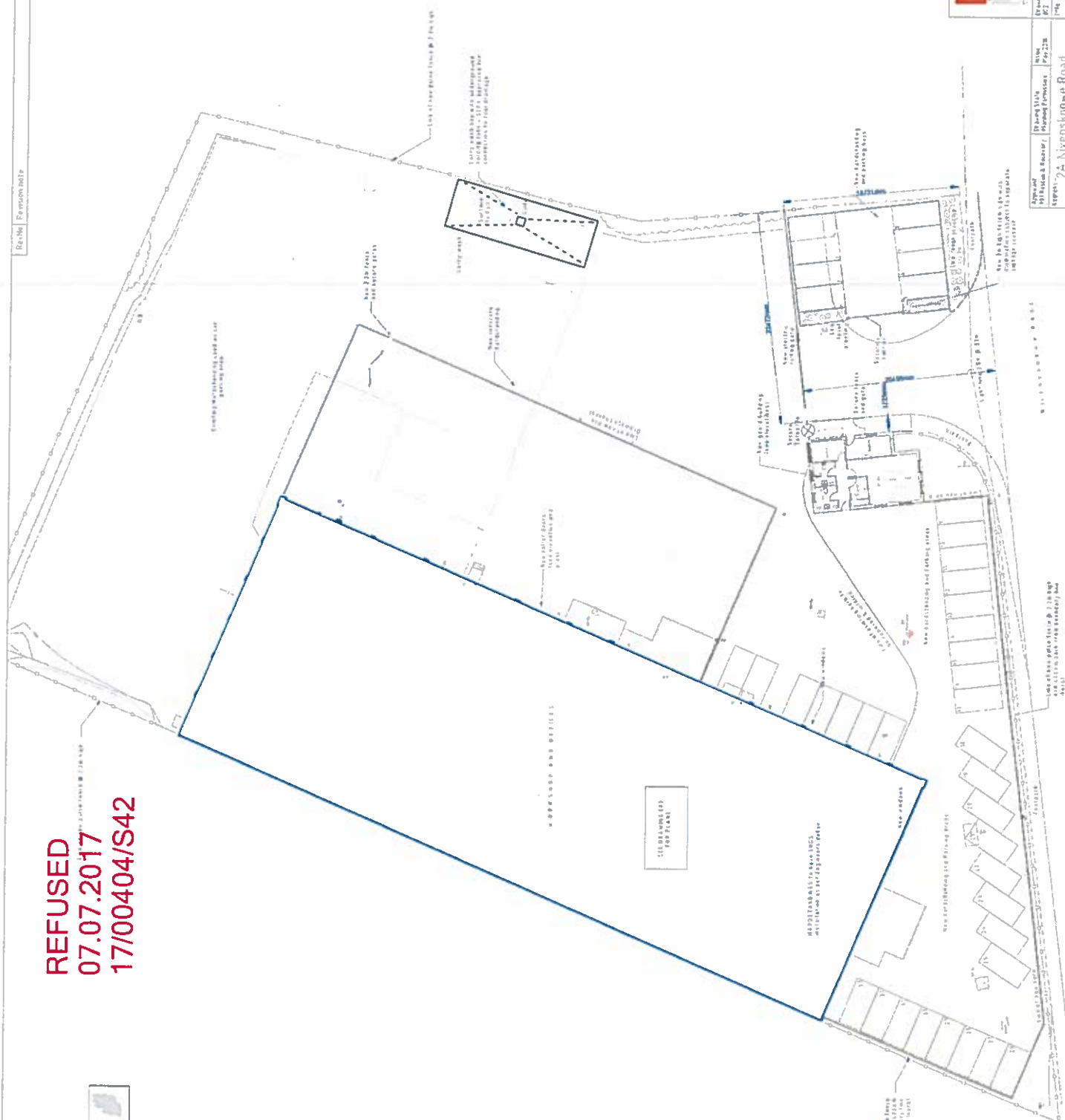
Key No	Revision note	Date	Signature (checked)

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	<p>Survey UK Ltd 12 Alno Street, Edinburgh, EH2 4DG Tel: 011 352 0541 Fax: 011 352 7289 e: <a href="mailto:enquiries@surveyuk.co.uk">enquiries@surveyuk.co.uk</a></p>	<p>Survey UK Ltd 12 Alno Street, Edinburgh, EH2 4DG Tel: 011 352 0541 Fax: 011 352 7289 e: <a href="mailto:enquiries@surveyuk.co.uk">enquiries@surveyuk.co.uk</a></p>	<p>Survey UK Ltd 12 Alno Street, Edinburgh, EH2 4DG Tel: 011 352 0541 Fax: 011 352 7289 e: <a href="mailto:enquiries@surveyuk.co.uk">enquiries@surveyuk.co.uk</a></p>
<p>Application and SST Return 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, </p>			

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REFUSED  
07.07.2017  
17/00404/S42



 <p>Survey UK Ltd 17 And Street, Loughborough, Leics. LE11 1AB Tel: 01509 24 1111 Fax: 01509 24 1112 www.surveyuk.co.uk</p>	<p>Survey number PC 228</p> <p>Leaflet 100000</p> <p>Scale 1:50,000</p>
<p>24 Nivensknowe Road Loanshead</p>	<p>Proposed Site Plan</p>



**MIDLOTHIAN COUNCIL****DEVELOPMENT MANAGEMENT  
PLANNING APPLICATION DELEGATED WORKSHEET:**

**Planning Application Reference:** 17/00404/S42

**Site Address:** 2A Nivensknowe Road, Loanhead.

**Site Description:** The site comprises part of a large industrial unit and associated car parking within, but at the edge of, Pentland Industrial Estate. The building is 2 storeys high with grey metal clad walls and a pitched roof. Access is from Nivensknowe Road. There is a fence hard up along most of the boundary to Nivensknowe Road, with a small area of landscaping beside a parking area.

There is a builders' merchant, a showroom and two sales businesses within the larger industrial unit. There is a dwellinghouse to the east with Pentland Industrial Estate to the north and west and Bilston Glen Industrial Estate to the south.

**Proposed Development:** Section 42 application to remove conditions 3 and 4 of planning permission 16/00497/DPP.

**Proposed Development Details:** The application seeks non-compliance of two conditions attached to a planning permission granted in 2016. These conditions required a fence along Nivensknowe Road to be moved from the heel of the pavement to allow landscaping between the pavement and the fence. It is currently proposed for the majority of the fence along Nivensknowe Road to be hard up to the pavement with no landscaping. These works have been completed and are in place. The applicant states the fence as existing is required for the security of the operations carried out on site. Application 16/00497/DPP allowed a change use of the site from warehouse storage to an HGV maintenance and service depot and the site is partially used by Police Scotland relating to recovered and impounded vehicles.

Three site plans have been submitted, all with the same drawing number and date showing generally the same layout with some slight differences in parking and ancillary buildings. The position of the fence is the same on all plans.

Condition 3 of 16/00497/DPP Alterations to and change of use of building from warehouse to vehicle maintenance and service depot, erection of gatehouse, fencing, gates, formation of hardstanding, car parking and truck wash bay (retrospective)

The proposed car parking and position of fence layout as shown on drawing numbers 002 dated 1 August 2016 and 5 September 2016 is not approved. Within 28 days of the date of this decision notice, an amended layout shall be submitted to and approved in writing by the Planning Authority. This shall set back the position of the fencing hereby approved from the heel of the pavement to an agreed position to achieve the required visibility splays and will include a landscape strip.

**Reason:** *For the avoidance of doubt; the current position of the fencing will have a detrimental impact on road safety and the character and appearance of the surrounding area.*

Condition 4 of 16/00497/DPP

The landscaping hereby approved as per condition 3 above shall include either beech and hornbeam or mixed native non-spikey hedging to be maintained at a height no less than 1.5 metres.

**Reason:** *To ensure that change of use of this prominent site does not have a detrimental visual impact on the appearance at the edge of the industrial estate and the built up area.*

A small area of planting has been installed by the visitor parking, which is low level in a small section, not reflective of the landscaping in the surrounding area.

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

**Application site**

16/00497/DPP Alterations to and change of use of building from warehouse to vehicle maintenance and service depot, erection of gatehouse, fencing, gates, formation of hardstanding, car parking and truck wash bay (retrospective). Consent with conditions, including: details of materials; details of lighting; landscaping details; access; and restriction on the use of the site as per the information submitted; as well as conditions 3 and 4 stated above.

15/01001/DPP Change of use from class 6 (storage and distribution) to builders merchants (sui generis). Consent with conditions – restricting the use of the site; additional plans; landscaping along Nivensknowe Road to limit the visual impact on the surrounding area.

**Neighbouring site**

07/00148/FUL Change of use from Class 6 (storage and distribution) to builders merchants. Consent with conditions – related to the use of the site, access, landscaping, areas of sale and storage within the site.

**Consultations:** The Policy and Road Safety Manager states given the specialised nature of the operation and the low usage of the entrance, the existing (proposed) access arrangements appear to be operating well. Therefore they would not be looking for any alterations to the existing visibility splays.

**Representations:** No representations were received.

**Relevant Planning Policies:** The relevant policies of the 2008 Midlothian Local Plan are;

**COMD1 Committed Development** states that Midlothian Council will continue to seek the early implementation of all committed development sites; and

**RP20 Development Within the Built-Up Area** states that development will not be permitted where it is likely to detract material from the existing character or amenity of the area.

The relevant policies of the **2014 Midlothian Local Development Plan Proposed Plan** are;

**STRAT1 Committed Development** contains similar policy requirements to COMD1 of the adopted Local Plan; and

**DEV2 Protecting Amenity Within the Built-Up Area** contains similar policy requirements to RP20 of the adopted Local Plan.

**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.

Throughout the assessment of the previous application, the Planning Authority had serious concerns over the loss of the landscaping which ran along the boundary to Nivensknowe Road. The applicant was made aware of these at an early stage.

The position of the fence and landscaping were important features of the site at the edge of the industrial estate as they softened the visual impact of the estate from the surrounding built up area and entrance to Loanhead. The previous fence was lightweight in appearance and set back from Nivensknowe Road with a grassed area, with hedging and tree planting alongside. This layout reflected the general character of large areas landscaping and vegetation on the opposite side of Nivensknowe Road which bounds Bilston Glen Industrial Estate. The previous landscaping at the site was considered of such importance that a permission granted in 2015 required additional landscaping along this boundary to ensure the proposed works would not have a detrimental impact on the surrounding area. Although this section of Nivensknowe Road is bound by industrial estates on two sides, the previous layout and landscaping provided a buffer between the public realm and the industrial estates, softening the impact of the industrial uses and screening these from the surrounding area. This was a highly successful way of integrating the commercial and industrial uses at the entrance into Loanhead and creating a pleasant and attractive entrance point into one of Midlothian's strategic towns.

The landscaping was removed and the fence repositioned without planning permission, and carried out during the assessment of the previous application. The fence is palisade to a height of 2.2 metres hard up to the heel of the pavement. Such fencing could be appropriate within industrial estates where the character of the area is different, however this site is a highly prominent public area at the edge of an industrial estate where such fencing is not acceptable. The previous fence was more lightweight which reduced its visual impact and more suited to the surrounding prominent public area. The concern over the fence design is compounded as timber has been attached to the back of the fence, resulting in a more solid/non-permeable structure, to prevent visibility into the site, as well as security/electric fencing being erected on top of the 2.2 metre high fence. This creates a very hard, blank, unattractive frontage to a very public site where it is clear that a lot of consideration and care had been previously taken to ensure that the adjacent industrial estates did not have such an impact on a public area.

The Planning Authority accepts the requirement for a fence for security reasons but considers this could have been carried out in a way more appropriate to the area. It

is for this reason that condition 3 was attached, as this would have been a suitable compromise for both parties given the works already carried out at the site. The repositioning by setting the fence back from the heel of the public footpath to allow for hedge planting would help integrate the site into the surrounding area without having a considerable impact on the amount of hardstanding provided within the site.

The scheme as previously approved allowed scope to retain important signage to direct traffic into Bilston Glen Industrial Estate, which has now been removed.

Condition 4 was attached to ensure that any new landscaping would be of an appropriate species and type to integrate into the surroundings given the significant amount of landscaping in the area. The landscaping which has been planted at the small section by the visitor parking does not reflect the species and style of the planting in the surrounding area. Instead of helping integrate the site into the area, this almost has the opposite effect, making this area stand out even more in its surroundings.

The applicant has not submitted any information or justification to support why they request that conditions 3 and 4 be removed.

Setting back the fencing would ensure that the required visibility splays can be fully achieved. Although the Policy and Road Safety Manager has not raised any objection to the proposal, the position of the fence causes a slight obstruction to the required visibility splay meaning this cannot be fully achieved. It is likely that the visibility splays could be achieved if the fence is moved back within the site, as required by the previous conditions.

The Planning Authority's position on the boundary treatment at this section remains as per the previous application. It is considered that conditions 3 and 4 remain necessary. The retention of the fencing as existing as per the submitted plans is wholly unacceptable.

**Recommendation:** Refuse planning permission.

# Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 17/00404/S42

Sorrell Associates  
The Green House  
41 St Bernard's Crescent  
Edinburgh  
EH4 1NR

Midlothian Council, as Planning Authority, having considered the application by Mr Stephen Greenhorn, 2 Jessie Street, Glasgow, G42 0GP, which was registered on 23 May 2017 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Section 42 application to remove conditions 3 and 4 of planning permission  
16/00497/DPP at 2A Nivensknowe Road, Loanhead, EH20 9QH**

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	22.05.2017
Site Plan	001 1:100	22.05.2017
Site Plan	002 1:200	22.05.2017
Site Plan	002 1:200	22.05.2017
Site Plan	002 1:100	22.05.2017

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

1. *The proposed removal of conditions 3 and 4 of planning permission 16/00497/DPP would result in the retention of an unattractive solid fence feature in the street scene which would have a significant detrimental impact on the character, appearance and visual amenity of the application site and the surrounding area and would therefore be contrary to the aims of policy RP20 of the adopted Midlothian Local Plan and policy DEV2 of the emerging Midlothian Local Development Plan.*
2. *Permission 16/00497/DPP was only considered acceptable on the basis that the site layout would be altered to set back the boundary fence to Nivensknowe Road and have suitable landscaping planted in order to mitigate the unattractive appearance of this inappropriate fence and to achieve a standard of landscaping suitable for the surrounding area. The absence of the required amendment to the layout renders the development unsuitable for the site.*

Dated 7/7/2017

A handwritten signature in black ink, consisting of a stylized 'D' and 'R'.

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

**Planning Permission**

Town and Country Planning (Scotland) Act 1997

**Reg. No. 16/00497/DPP**

Survey Uk Ltd  
12 Alva Street  
Edinburgh  
EH24QG

Midlothian Council, as Planning Authority, having considered the application by Mr Jim Wright, 12 Alva Street, Edinburgh, EH24QG, which was registered on 1 August 2016, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

**Alterations to, and change of use of building from warehouse to vehicle maintenance and service depot, erection of gatehouse, fencing, gates, formation of hardstanding, car parking and truck wash bay (retrospective) at 2A Nivensknowe Road, Loanhead, EH20 9QH**

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	01.08.2016
Site Plan	001 1:200	01.08.2016
Site Plan	002 1:200	01.08.2016
Site Plan	002 1:200	05.09.2016
Floor Plan	003 1:200	01.08.2016
Elevations	004 1:50	01.08.2016
Proposed Floor Plan	041 1:20	05.09.2016
Proposed Elevations	041 1:100	05.09.2016
Proposed Cross Section	041 1:20	05.09.2016
SUD's Plan	046 1:200 1:50	05.09.2016
Site Plan	5406-100 C 1:200	05.09.2016
SUD's Plan	5406-101 C 1:200	05.09.2016
SUD's Plan	5406-102 C 1:200	05.09.2016
Other Statements		01.08.2016

This permission is granted for the following reasons:

*With the exception of the boundary treatment along Nivensknowe Road, the proposed change of use and alterations are in keeping with the character of the surrounding industrial estate, would not detract from the amenity of the surrounding area and is likely to improve the economic activity and employment levels at the site and so complies with policies RP20, COMD1 and ECON4 of the adopted Midlothian Local Plan.*

Subject to the following conditions:

1. Prior to the commencement of development, the following details shall be submitted to and approved in writing by the Planning Authority:
  - a) Details of the proposed materials and colour of the cladding of the existing building;
  - b) Details of the colour and materials of all doors hereby approved;

- c) Details of the colour and materials of all window frames hereby approved;
- d) Details of all external materials of the gatehouse;
- e) Details of the design, dimensions and materials of all proposed canopies;
- f) Details of the design, dimensions, materials and colour finish of all proposed fences and gates;
- g) Details of the position and direction of any lighting to be installed at the site; and
- h) Details of the design, materials and dimensions of the brickhouse, as well as confirmation of its proposed use.

**Reason:** *These details were not submitted with the original application; in order to ensure that these details are in keeping with and do not detract from the character and appearance of the surrounding area.*

2. The security shutter on the window of the gatehouse hereby approved shall be internally housed: prior to the commencement of development, details of the internally housed roller shutter shall be submitted to and approved in writing by the Planning Authority.

**Reason:** *To protect the character and amenity of the proposed building and the surrounding area.*

3. The proposed car parking and position of fence layout as shown on drawing numbers 002 dated 1 August 2016 and 5 September 2016 is not approved. Within 28 days of the date of this decision notice, an amended layout shall be submitted to and approved in writing by the Planning Authority. This shall set back the position of the fencing hereby approved from the heel of the pavement to an agreed position to achieve the required visibility splays and will include a landscape strip.

**Reason:** *For the avoidance of doubt; the current position of the fencing will have a detrimental impact on road safety and the character and appearance of the surrounding area.*

4. The landscaping hereby approved as per condition 3 above shall include either beech and hornbeam or mixed native non-spikey hedging to be maintained at a height no less than 1.5 metres.

**Reason:** *To ensure that change of use of this prominent site does not have a detrimental visual impact on the appearance at the edge of the industrial estate and the built up area.*

5. The scheme of landscaping approved in terms of conditions 3 and 4 shall be completed within six months of the date of the decision notice. Any trees or shrubs removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees or shrubs of a size and species similar to those originally required.

**Reason:** *To ensure the landscaping is carried out and becomes successfully established.*

6. The amended layout approved in terms of condition 4 shall include two pedestrian dropped kerb crossing, one on either side of the vehicular entrance.

**Reason:** *In the interest of road safety; to protect the safety of pedestrians in the surrounding area.*

7. Unless otherwise agreed in writing by the Planning Authority, the use of the site shall operate in compliance with the information detailed in the agent's email dated 6 July 2016 approved as 'other statements' dated 1 August 2016.

***Reason: To ensure that the use operates as detailed in the supporting information;  
to ensure that the Council retains control over the use so there is no detrimental  
impact on the character and amenity of the surrounding area.***

Dated 30 / 9 / 2016

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

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

---



**The Coal  
Authority**

**Any Planning Enquiries should be directed to:**

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

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

### **STANDING ADVICE - DEVELOPMENT LOW RISK AREA**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

Further information is also available on The Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com)

*This Standing Advice is valid from 1<sup>st</sup> January 2015 until 31<sup>st</sup> December 2016*

## **MIDLOTHIAN COUNCIL**

### **DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:**

**Planning Application Reference:** 16/00497/DPP

**Site Address:** 2A Nivensknowe Road, Loanhead.

**Site Description:** The application site comprises part of a large industrial unit and associated car parking within, but at the edge of, Pentland Industrial Estate. The building is 2 storeys high with grey metal clad walls and a pitched roof. Access is from Nivensknowe Road and there is a parking area within the site. There is a builders' merchant, a showroom and two sales businesses within the larger industrial unit. There is a dwellinghouse to the east of the site with Pentland Industrial Estate to the north and west and Bilston Glen Industrial Estate to the south.

**Proposed Development:** Alterations to, and change of use of building from warehouse to vehicle maintenance and service depot, erection of gatehouse, fencing, gates, formation of hardstanding, car parking and truck wash bay (retrospective).

**Proposed Development Details:** It is proposed to change the use of the site from warehouse storage to an HGV maintenance and service depot. The agent has submitted further information stating that the site will be partially used by Police Scotland relating to recovered vehicles.

A number of external alterations are proposed, namely the inclusion of roller shutter doors and windows on the east and south elevation. One of the doors is to be covered by a glass canopy. The walls are to be re-clad but there are not details of colour finish.

Hardstanding is proposed on all the land around the existing building, with the majority used as car parking. A truck wash bay is proposed to the east of the site. New high palisade fencing is proposed along the boundary of the site and also within the site, along with a number of gates. The plans state the fencing is to be 2.2 metres high but the agent says 3 metres.

A new gate house is proposed by the vehicular entrance, which is to be a single storey building. This is to be clad, have canopies and a roller shutter. One site plan shows a brick house but no additional information has been submitted.

Work is well underway at the site, with the agent aware that planning permission was required.

The site plans include a note regarding a 3 metre high totem sign at the vehicular entrance. This does not form part of the current application.

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

**Application site**

15/01001/DPP Change of use from class 6 (storage and distribution) to builders merchants (sui generis). Consent with conditions – restricting the use of the site; additional plans; landscaping along Nivensknowe Road to limit the visual impact on the surrounding area.

**Neighbouring site**

07/00148/FUL Change of use from Class 6 (storage and distribution) to builders merchants. Consent with conditions – related to the use of the site, access, landscaping, areas of sale and storage within the site.

**Consultations:** The Policy and Road Safety Manager initially had some concerns over the following: the visibility splay at the access; crossing points for pedestrians; and SUDs information. They also noted that water valves which were previously on the grass verge at the front of the site have now been enclosed within the site. The agent submitted additional information relating to the SUDs and the surfacing of the parking areas. However, inadequate information has been submitted to address the concerns over the visibility splays.

**Representations:** No representations were received.

**Relevant Planning Policies:** The relevant policies of the 2008 Midlothian Local Plan are;

**COMD1 Committed Development** states that Midlothian Council will continue to seek the early implementation of all committed development sites;

**ECON4 Storage and Distribution and other non-residential uses on existing industrial land and buildings** states that in exceptional circumstances and in locations close to the strategic road network, consideration may be given to a storage and distribution or other non-residential use on such sites subject to the following criteria being met: the level of employment arising from the proposed use is equivalent to Class 4 or Class 5 uses; there is no loss of land identified for research and development/knowledge based industries; and provision is made to accommodate traffic generated by the proposed use and for suitable access without adversely affecting the local area; and

**RP20 Development Within the Built-Up Area** states that development will not be permitted where it is likely to detract material from the existing character or amenity of the 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 site is within an established industrial estate and the proposed use is generally considered acceptable given the location of the site and the surrounding uses. The former use of the site was for storage and it would be reasonable to assume that the proposed change of use would result in an increase in employment numbers and therefore economic activity. The proposed use would not result in the loss of land identified for research and development/knowledge based industries. Given the

specific nature of the proposed use, with combined uses of the Police Scotland element and the vehicle maintenance and service depot, it would be prudent to condition that the use of the site be as per the agent's email dated 1 August 2016.

The proposed external alterations to the existing building are generally in keeping with the industrial nature of the area and are acceptable subject to details of materials being submitted and approved. It is of note that the position of the window and door openings on the proposed floor plan does not match the proposed elevations, however this would not affect the acceptability of these alterations.

In general terms, the Planning Authority does not have an issue with the large areas of hardstanding at the site or car parking as this would not be markedly different from the previous situation. However, the creation of car parking has resulted in the removal of areas of landscaping which were located along the roadside boundary to Nivensknowe Road. This landscaping was an important feature of this site at the edge of the industrial estate as it softened the visual impact of the estate from the surrounding built up area and entrance to Loanhead, with the boundary fence set back from the landscaping. This replicated the landscaping and vegetation on the opposite side of Nivensknowe Road which sets back Bilston Glen Industrial Estate. This was considered of such importance that the previous application at the site required additional landscaping along this boundary in order to ensure that the proposed works would not have a detrimental impact on the surrounding area. Given the nature of the proposed use, a 3 metre high palisade fence has been erected along the roadside, as well as around the site for security purposes.

Although the site is within the established Pentland Industrial Estate, it is also highly publically visible from Nivensknowe Road. The Planning Authority has concerns regarding the design and position of the fence along the boundary to Nivensknowe Road. The proposed fence, which has been erected without planning permission, has been positioned at the edge of site with a very narrow area of grass between it and the pavement. This, combined with the design and colour of the fence, has a significant detrimental impact on the appearance of the site and the surrounding area. The site is at the edge of the industrial estate and is highly prominent when entering and exiting Loanhead. The removal of the landscape strip and erection of the 3 metre high palisade fence is not considered acceptable to the Planning Authority and this has been relayed to the applicant. The Planning Authority accepts the requirement for the fence, but has serious concerns over the design and position. It would be more appropriate for the position of the fence to have remained as it it previously was with the landscaping retained and supplemented. It may be possible for the concerns over the design and height of the fence to be allayed by setting this back from the heel of the public footpath to allow for hedge planting which would help integrate the site into the surrounding area, which shall be conditioned. It is worth noting that although one of the site plans shows a narrow area of low level planting by the parking spaces to the east, the fence has been erected along the site boundary to heel of the pavement and does not allow for any landscaping.

Setting back the fencing may also address the visibility concerns raised by the Policy and Road Safety Manager. They have raised concerns over the lack of adequate visibility splays and have no records of discussions/agreement with the agent as

stated. It may be possible for the visibility splays to be improved to an acceptable distance if the fence is moved back within the site, as required above.

There is a residential property to the east of the site which will be adjacent to the proposed parking area and an area of hardstanding. The proposed parking area replaces an area of landscaping between the site and the residential unit, however given the previous use of the site and it being within an industrial estate, the Planning Authority considers that the proposed use would not have a significant detrimental impact on the amenity of the residential property as compared the existing situation.

A truck wash bay is proposed to the east of the site which will face on to an industrial unit to the east. Given the proposed boundary treatment and the neighbouring use, it is not considered that this would have a detrimental impact on the character or amenity of the area.

The proposed gatehouse is a relatively large building positioned at the site entrance. The design is generally unobtrusive, although the structure is relatively large. Given that it is set back from Nivensknowe Road, it will have a limited impact on the character or appearance of the area. The submitted plans state there will be a security shutter on the gatehouse. These can be bulky additions which detract from the appearance of buildings and surrounding area and should be avoided. Any security shutters should be internal and integrated into the design of the building, not an externally housed shutter. This would improve the appearance of the building.

One site plan shows a brick house but no additional information has been submitted. Further information is required in relation to the brick house which is annotated on one site plan.

Further information is required in relation to the position and direction of any lighting proposed given that the site is to be used 24 hours a day and the proximity to residential properties.

As detailed above, in general terms a large amount of the proposal is acceptable. However, it is highly regrettable that a number of these works have already been carried out without the required permissions in place, especially the removal of the landscaping and erection of fencing. Had these works not been undertaken in advance of permission being granted, the existing landscaping could have been retained with the proposed fencing set back from the road. However, this was not the case and the works were well underway before the application was submitted.

**Recommendation:** Grant planning permission.

## **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](http://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](http://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

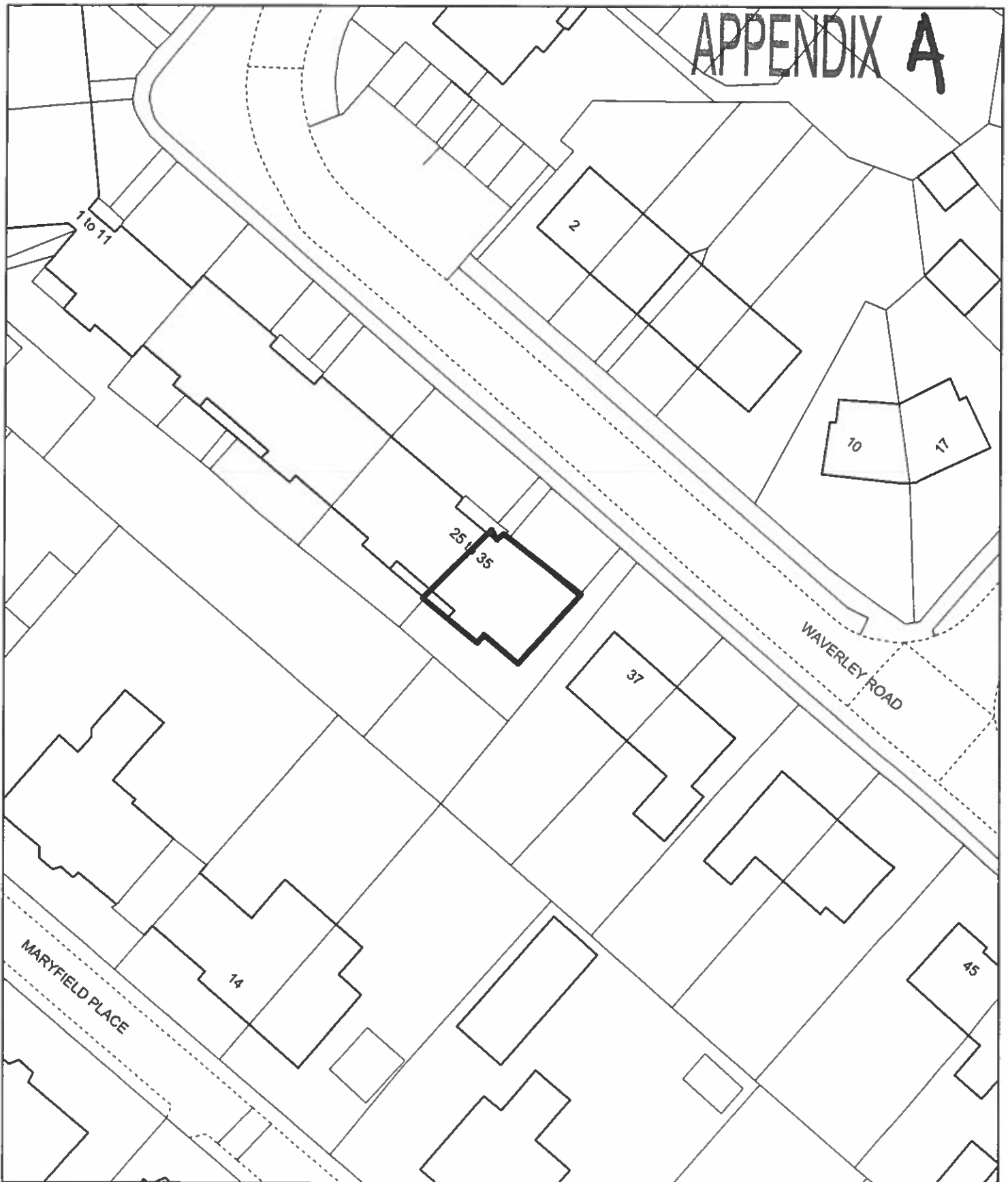
**Date:** 14 November 2017

**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**  
Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith  
EH22 3AA

29 Waverley Road, Bonnyrigg

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File No. 17/00440/DPP

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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](mailto: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:	Ferguson Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Tim	Building Name:	Shiel House
Last Name: *	Ferguson	Building Number:	54
Telephone Number: *	01896 668 744	Address 1 (Street): *	Island Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Galashiels
Fax Number:		Country: *	UK
		Postcode: *	TD1 1NU
Email Address: *	tim@fergusonplanning.co.uk		

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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69 Buchanan Street  
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**M 07960 003 358**  
**E [tim@fergusonplanning.co.uk](mailto:tim@fergusonplanning.co.uk) W**  
**[www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)**

**NI Office:**  
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Ballycastle  
Co. Antrim BT54  
6LG

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1. Introduction
2. Reason for Refusal
3. Planning Context
4. Grounds of Appeal
5. Conclusion

### Appendices:

Appendix 1 – Appeal Documents  
Appendix 2 – Site Plan  
Appendix 3 – Cundall Traffic Survey  
Appendix 4 – HMO Properties

LPA Ref: MIDLOTH  
Author: SL/TF  
Telephone: 01896 668 744  
Date of Issue: September 2017



## 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 5<sup>th</sup> June 2017 with a decision, via delegated powers, to refuse the application received on 31<sup>st</sup> 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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Ballycastle  
Co. Antrim BT54  
6LG

## 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*



*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.



*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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# FERGUSON PLANNING



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. <sup>1</sup> 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

<sup>1</sup> <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**

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### **Parking Capacity Review**

**Mr Luigi Pia**

Job No: 1015948

Doc Ref: RPT-TC-01

Revision: —

Revision Date: 08 September 2017

<b>Project title</b>	29 Waverley Road, Bonnyrigg	<b>Job Number</b>
<b>Report title</b>	Parking Capacity Review	1015948

#### Document Revision History

Revision Ref	Issue Date	Purpose of Issue / description of revision
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Verified by

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# 1.0

## Introduction

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## 1.0 Introduction

Cundall has been appointed to provide transportation advice to support the refurbishment 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.

The property is located in a residential area approximately 300m to the north-east of Bonnyrigg town centre in Midlothian. Figure 1.1 shows the property's location in relation to the adjacent area.



### Figure 1.1 Site Location

Midlothian Council have provided the following reason for refusing the current application submitted in support of the proposal:

*'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.'*

A survey of the operation of the adjacent street network has been undertaken to review the current level of demand for parking in the area to identify the additional parking able to be accommodated on the local road network. This technical note summarises the results of the review.

# 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 23<sup>rd</sup> and Sunday 27<sup>th</sup> 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.

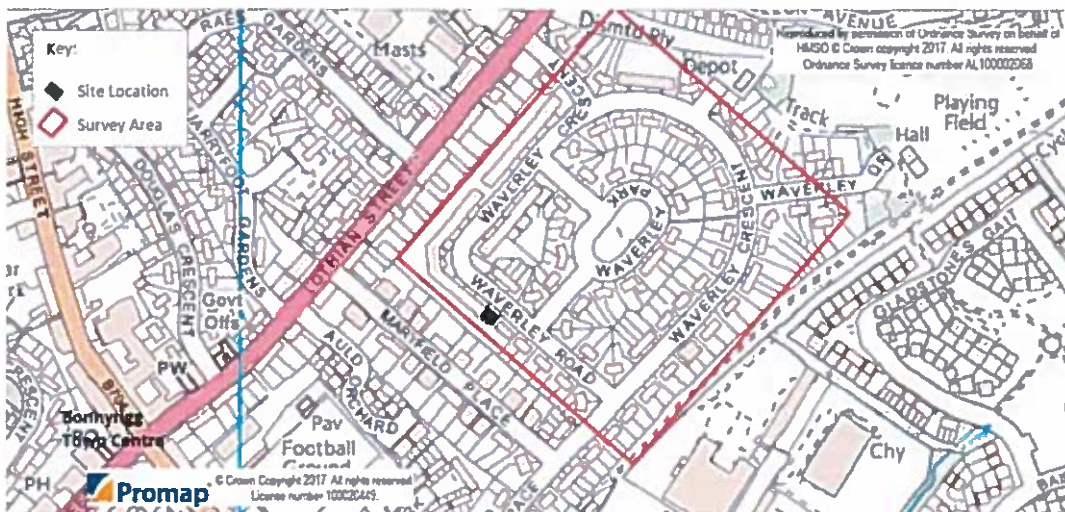


Figure 2.1 Survey Area

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.

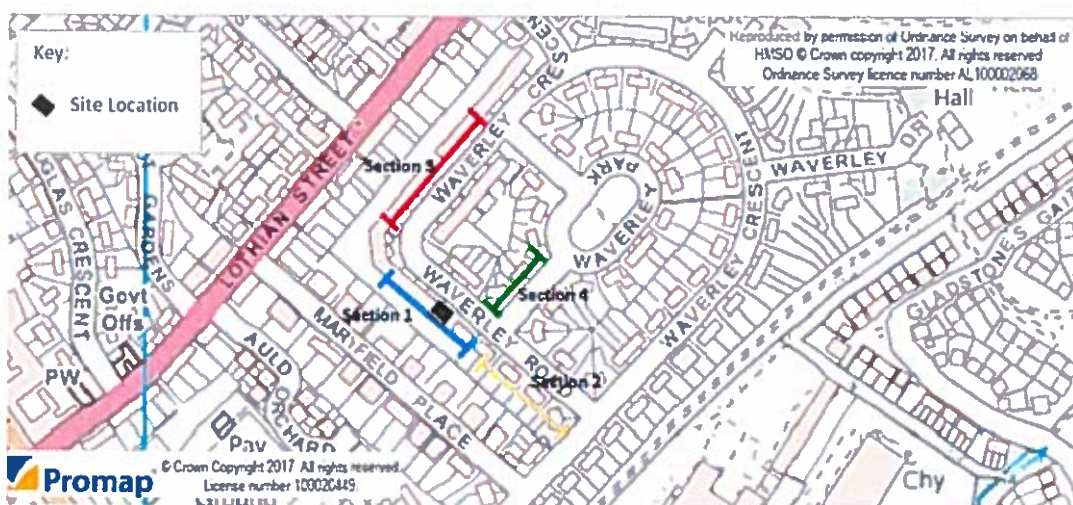


Figure 2.2 Local Road Network

## 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.

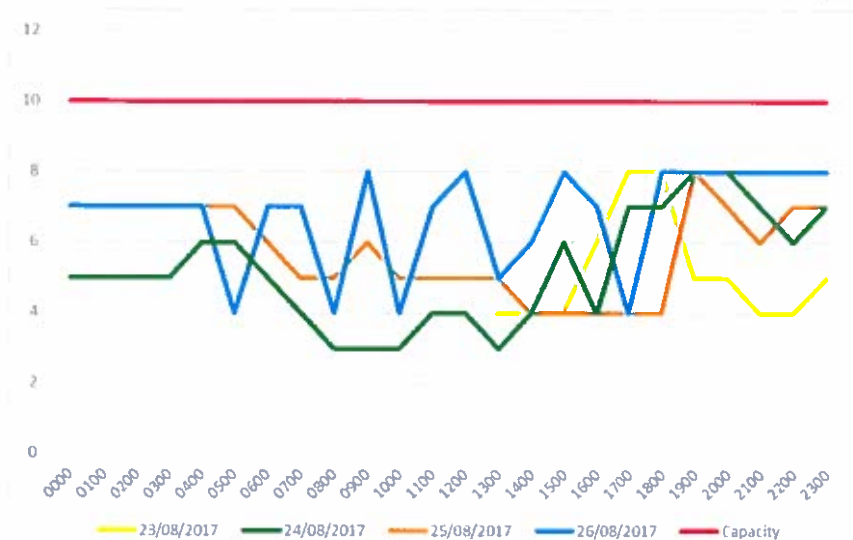
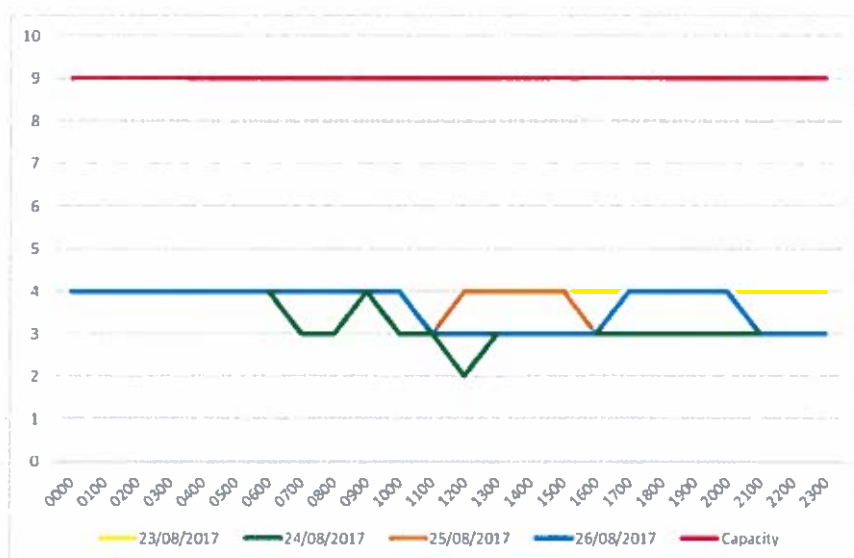


Figure 2.2 Section 1 Parking Demand

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.

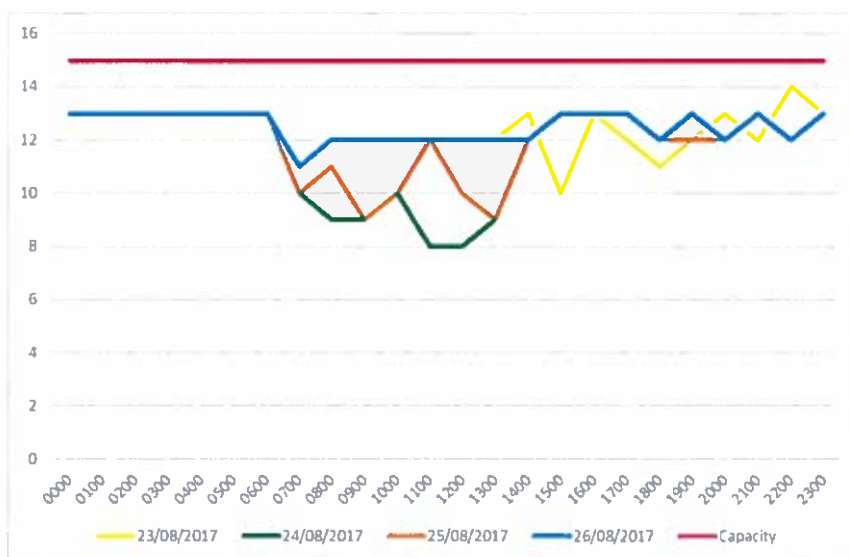


**Figure 2.3 Section 2 Parking Demand**

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.

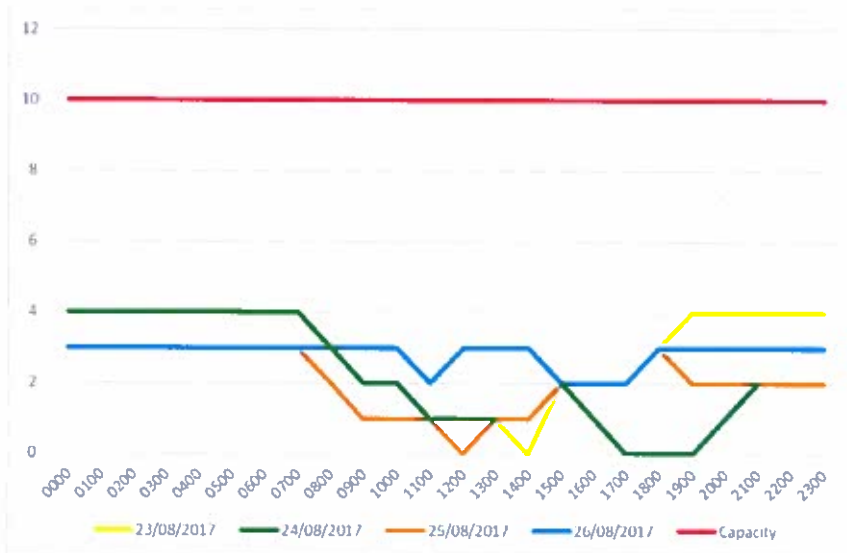


**Figure 2.4 Section 3 Parking Demand**

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.

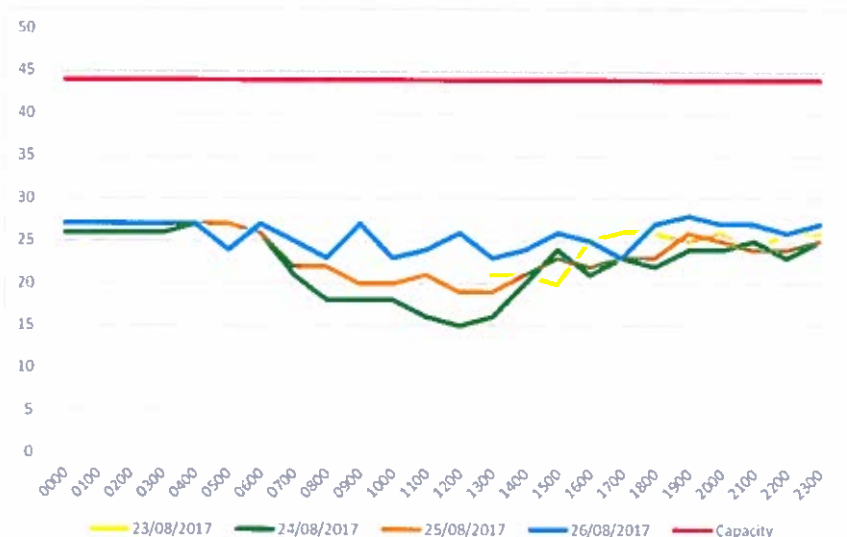


**Figure 2.5 Section 4 Parking Demand**

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

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## 3.0 Summary and Conclusions

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### 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

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

*This Informative Note is valid from 1<sup>st</sup> January 2017 until 31<sup>st</sup> December 2018*



