

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

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 15 January 2018; 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

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

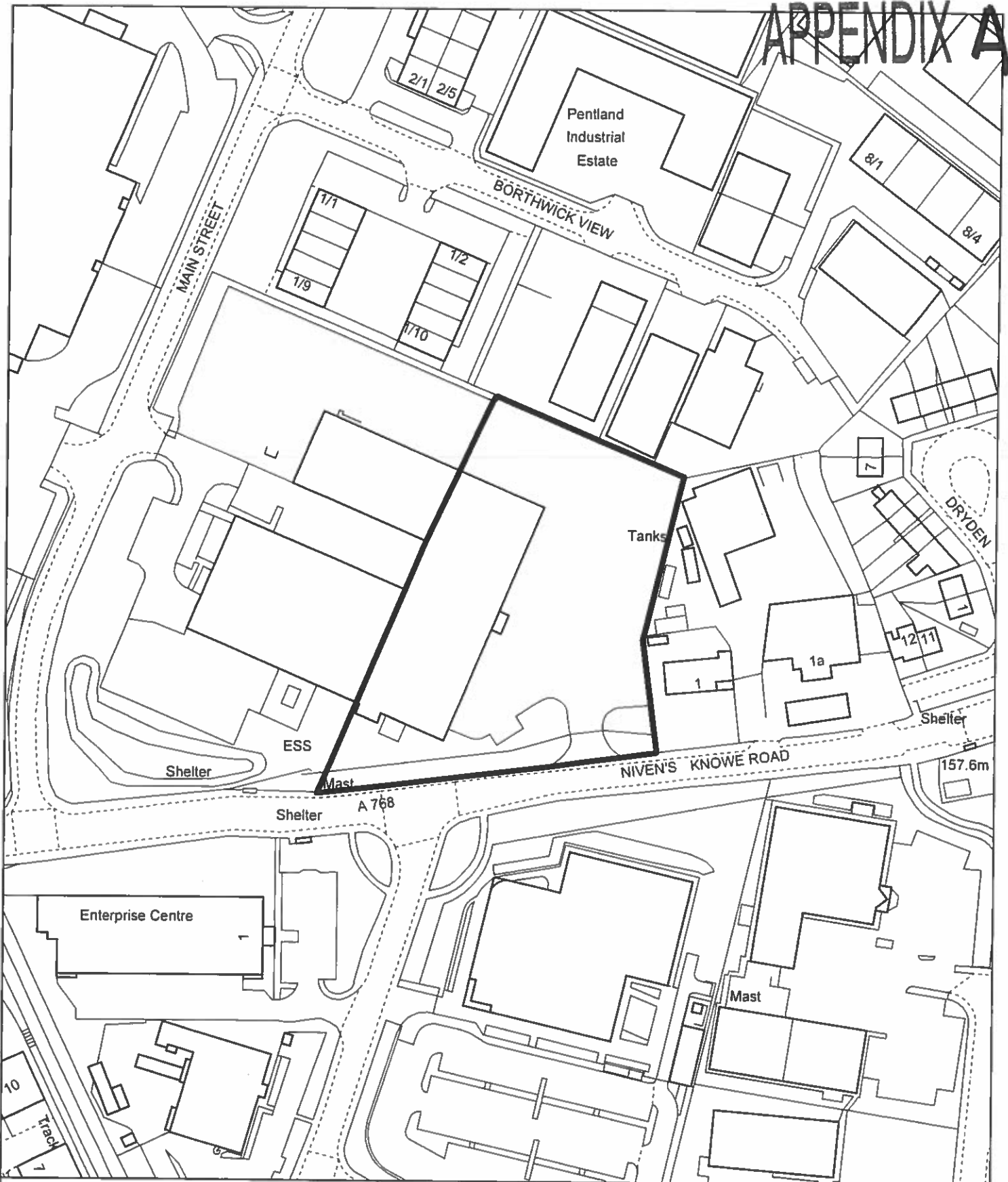
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 5 January 2018

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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File No. 17/00404/S42

Scale: 1:1,500



Midlothian



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

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

Thank you for completing this application form:

ONLINE REFERENCE 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:	<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"/>
First Name: *	<input type="text" value="Stephen"/>	Building Number:	<input type="text" value="2"/>
Last Name: *	<input type="text" value="Greenhorn"/>	Address 1 (Street): *	<input type="text" value="Jessie Street"/>
Company/Organisation	<input type="text" value="911 Rescue & Recovery Ltd"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Glasgow"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="G42 0GP"/>
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="2A NIVENSKNOWE 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="LOANHEAD"/>
Post Code:	<input type="text" value="EH20 9QH"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="665312"/>	Easting	<input type="text" value="327034"/>
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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)

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

**2A Nivensknowe Road
Loanhead
Midlothian EH20 9QH**

**Security Fence and Boundary
Treatment**

**Planning Statement in support of a
Notice of Review**

**Review of a Decision by Midlothian
Council to Refuse a Planning
Application (ref 17/00404/S42) to
Vary Conditions 3 & 4 of Planning
Permission 16/00497/DPP**

On behalf of:

**911 Rescue & Recovery Ltd
(Stephen Greenhorn)**

6th October 2017

Sorrell Associates

planning | development | consultancy

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SECTION 1 INTRODUCTION

- 1.1 This Planning Statement is issued in support of a Notice of Review on behalf of 911 Rescue & Recovery Ltd (referred to as 'the company' or '911'). It concerns the premises in the company's ownership at 2A Nivensknowe Road, Loanhead from where it operates a car storage and vehicle inspection depot. The business largely services a contract with Police Scotland (Scottish Police Authority / 'SPA') which is administered through its managing agent FMG Ltd. The property is within the Pentland Industrial Estate, one of the prime employment areas in Midlothian.
- 1.2 The company is seeking a review by the Local Review Body of Midlothian Council ('the Council') under Section 43A of the Town and Country Planning (Scotland) Act 1997 ('the Planning Act') of the decision made by Council planning officials to refuse planning permission for application ref 17/00497/S42.
- 1.3 The application seeks approval to retain a security fence which has been erected just inside the site boundary along Nivensknowe Road in variance of the terms of two planning conditions (Conditions 3 and 4) pursuant to planning permission ref 16/00497/DPP. That consent approved the change of use of the premises generally appropriate for the company's business. However, the conditions required the fence to be set back into the site and to reinstate a landscaped verge.
- 1.4 In refusing the current application the Council's officials have maintained their opposition to the fence as they consider its appearance and the loss of the grass verge are detrimental to the amenity of Nivensknowe Road, including as a gateway to the Loanhead residential area. The company strongly disagrees with this assessment and considers that planning permission is justified for the following reasons:
- The retention of the fence is of fundamental importance to the continuing operation of the business. Its appearance derives from the need for high security. Inclusion of the former grass verge area within the operational site is vital in providing vehicular access to the main inspection building and vehicle parking which is vital to the overall storage capacity of the site.
 - ***The withdrawal of the fence into the site would cause such logistical difficulty to the company in fulfilling its contract to the Scottish Police Authority that it would be forced to consider relocation.***
 - The site is within the Pentland Industrial Estate and the appearance and function of the high security fence is appropriate in an industrial area
 - The relevance of the site as a 'gateway' to the residential area is inappropriate and is otherwise compromised by the detrimental appearance of the adjacent derelict house and former petrol filling station
 - The requirement by officials for a higher standard of amenity is not supported by planning policy or planning guidance specific to this location
- 1.5 In addition, the amenity of the site and appearance of the fence have been enhanced by the following:

- painting the fence, a dark green colour - this has been carried out since the refusal of consent, and will be evident to the Local Review Body members at the site visit.
- planting of shrubs along the edge of the visitors' car park at the site entrance
- overall improvement to the condition of the site from the building works undertaken

1.6 The company is also willing to carry out any further reasonable measures in agreement with the Council should the LRB consider this to be expedient, given the importance to the overall business operation of retaining the fence in its current position.

1.7 The Notice of Review has been submitted within the statutory three month period following the issuing of the refusal notice on 7th July 2017 and is supported by the following:

General matters

1. Planning Statement (this document)
2. Site Location Plan
3. Existing Site Plan prior to development by the company - Drawing 001

Application 16/00497/DPP

4. Proposed Site Plan - Drawing 002 (1st Aug 2016)
5. Proposed Site Plan - Drawing 002, Amendment (5th Sept 2016)
6. Midlothian Transportation consultation response, 11th August 2016
7. Midlothian Transportation consultation response, 15th September 2016
8. Delegated Worksheet
9. Decision notice, 30th September 2016

Application 17/00404/S42

10. Proposed Site Plan - Drawing 003 (Amendment - 'Revision E')
11. Photograph illustrating visibility splay at site entrance
12. Midlothian Transportation consultation response, 29th June 2017
13. Delegated Worksheet
14. Decision notice, 7th July 2017
15. Letter from FMG to 911 Rescue & Recovery, 21st July 2017

1.8 The attention of the LRB is particularly drawn to item 10, the Site Layout Plan which shows how the site has been developed and is operational today. This shows shaded in yellow the former grass verge area and the function it now fulfils for parking and access. The new fence runs on the periphery of the site along the back of the pavement. The business need for retaining these features is at the heart of this proposal and is supported by the letter from FMG (item 15). The previous alignment of the fence ran across the former landscaped area as shown on the Existing Site Plan at Item 3.

1.9 All the above matters are explained in greater detail in the following sections of this planning statement

- 1.10 Procedural Note - When application 17/00497/S42 was validated by the Council, the identity of 'the applicant' was not formally recorded as 911 Rescue & Recovery but instead as Mr Stephen Greenhorn, the company's Managing Director whose name had also been included on the application form. As the right to request a Review is reserved under planning procedure to 'the applicant', this review has also been submitted in the name of Mr Greenhorn to ensure legal compliance. However, for the avoidance of doubt, the development proposed is for the benefit of 911 Rescue & Recovery Ltd, whose interests in all regards are represented by Mr Greenhorn.

SECTION 2 BACKGROUND TO THE PROPOSAL AND PLANNING APPLICATION PROCESS

- 2.1 911 Rescue and Recovery specialise in the recovery of damaged and crashed vehicles, and the subsequent storage and processing of the vehicles involved.
- 2.2 At Nivensknowe Road the company carries out a specialist service contracted to Police Scotland, through the Scottish Police Authority's management agency FMG Ltd. This requires:
- the recovery of vehicles involved in traffic and criminal incidents in the Edinburgh area,
 - provision of a site for their secure storage and
 - premises at which forensic examination is undertaken as part of investigations by the Police and Crown Prosecution Service.
- 2.3 For these reasons the site must be highly secured.
- 2.4 The operation is central to fulfilling the SPA's remit across Edinburgh and the Lothians and particularly includes the recovery of vehicles involved in gun-crime, drug-crime and accidents where there have been fatalities. It comprises the regional hub for forensic examination of vehicles and the site is of strategic importance to the SPA in combatting crime and obtaining vital evidence to help prosecutors in the subsequent legal process. The site is required to operate 24 hours a day, seven days a week, 365 days a year.
- 2.5 The company's contract with FMG on behalf of the SPA commenced from March 2016 when it was able to step in at short notice after another operator could not fulfil the police service's requirements. At that time 911 operated from a site in Newbridge, however this was only a temporary base until a fully serviced site could be identified.
- 2.6 911 then undertook a detailed site search across Edinburgh and the Lothians. This was limited by the need for a site of at least one acre, well connected to the trunk road network and with a building of over 15,000 sqft that could operate 24/7. The site at Nivensknowe Road was the only site in the Edinburgh area available for purchase that met these criteria.
- 2.7 When 911 completed acquisition of the site there was considerable urgency from the police service for the site to become operational as quickly as possible. It had previously been leased by the British Geological Survey who had vacated but it was in poor condition and required considerable upgrade and investment to make it fit for purpose.
- 2.8 The company was aware that planning permission was required for change of use, alterations to the main building and physical works to the site, including the security fence. However, in the company's experience, security fences are common features on sites within prime industrial estates and it considered there was reasonable expectation that planning permission would be granted. It therefore decided to commission the works in parallel with the planning application process, from which planning permission was granted on 30th September 2016 and this is reviewed below.
- 2.9 Works to the site and the main building were progressed to enable the company to commence operations from April 2017, and all further works have subsequently been completed.

- 2.10 The previous perimeter fence was a wire fence set back from the road by up to 6 metres. This ran across a grass verge which extended to the pavement on one side and further into the site than the fence on the other. This is shown on the Existing Site Plan submitted with application 16/00497/DPP. This grassed area was within the private site ownership and was required by the company for operational purposes, which are explained fully in Section 4 of this planning statement. Accordingly, the new fence was constructed close to the back of the pavement. The grass verge was in relatively poor condition and various road signs had been installed on it by the Council. These have subsequently been requisitioned.

Planning Application Process

- 2.11 The planning application was submitted in the name of Survey UK Ltd (the company's project manager) on behalf of 911 Rescue and Recovery on 14th July 2016 (ref 16/00497/DPP). The description of development recorded was:

'Alterations to and change of use of the buildings from warehouse to vehicle maintenance and service depot, erection of gatehouse, fencing, gates, formation of hardstanding, car parking and truck wash bay (retrospective).'

- 2.12 Full planning permission was granted by the Council on 30th September 2016. However, the consent included the following planning conditions which are relevant to this Review:

'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.

- 2.13 911 was disappointed at the requirements for the fence to be set back and to reinstate a wide landscape strip, and considered the retention of the fence was justified. Sorrell Associates was appointed to enter discussions with the Council's planning officials to seek a resolution. Correspondence with Council planning officials was then progressed regarding Conditions 3 and 4 and also to satisfy the requirements of other planning conditions (nos 1, 2, 6 and 7). This led to the submission of drawings and other details regarding the design and materials to be used in converting the existing building, inclusion of dropped kerbs on the pavement at the site entrance, visibility splay, etc.

- 2.14 The planning case officer subsequently confirmed that the matters required by the other conditions had been satisfied and that only conditions 3 and 4 remain to be addressed. However, the case officer did not accept the justification put forward to retain the fence in its current position and also indicated that the Council was minded to take enforcement action. The applicant wanted to avoid such action if possible and on 21st May 2017 submitted planning application ref 17/00497/S42 to formally seek a variation of Conditions 3 and 4.
- 2.15 The planning case officer did not alter her opinion and the application was refused under planning officials' delegated authority on 7th July 2017. There are two reasons for refusal:
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.'*
- 2.16 The applicant considers that the importance of retaining the fence in its current position to the continuing operation of the business has thus far been overlooked in the determination of the applications, whereas the amenity considerations have been over-emphasised.
- 2.17 In Section 3 we refer to relevant planning policy and other material considerations and in Section 4 we address whether planning permission is justified in that context.

SECTION 3 DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Statutory Context

- 3.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires that *'planning applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.'*

Development Plan

- 3.2 The development comprises the Strategic Development Plan (SDP) for South East Scotland (SESplan), approved 2013 and the Midlothian Local Plan (MLP), adopted 2008.
- 3.3 **SESplan** provides a strategic vision for the Edinburgh city region. Its policies have no specific relevance to the site, however its aims include to *'enable growth in the economy by developing key economic sectors ...and supporting local development'* and also to *'conserve and enhance the natural and built environment'*.
- 3.4 **The Midlothian Local Plan** confirms the site is within the Pentland Industrial Estate which is zoned for general industry and business use but there are no other site-specific designations. The following policies apply.
- 3.5 **COMD1 Committed Development** commits the Council to seek the early implementation of all committed development sites including those which make up the established economic land supply which specifically include the Pentland Industrial Estate (Site e4).
- 3.6 **Policy RP20 Development Within the Built-Up Area** presumes against development within existing built-up areas, in particular within residential areas, where it is likely to detract materially from the existing character or amenity of the area.
- 3.7 **Policy DP2 Development Guidelines - Landscaping** makes a general requirement for development to be accompanied by a scheme of landscaping to add interest to its appearance

Material Considerations

Scottish Planning Policy (SPP) (2014)

- 3.7 The SPP states that the planning system should focus on the delivery of 'sustainable economic development' by following principles which include:
- the promotion of business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments, and
 - to give due weight to net economic benefit of proposed development

It also requires proposals for business and industry to consider local amenity.

Midlothian Local Development Plan (MLDP) (Proposed Plan 2014)

- 3.8 The draft LDP is due to be adopted in November 2017 by the Council at which time it will replace the MLP. It is therefore a relevant material consideration.
- 3.9 The MLDP reinforces the emphasis on promoting economic growth from SESplan and SPP. It states that promoting economic growth is the primary objective of the Midlothian Economic

Development Framework and that the Council positively seeks to deliver economic benefits by:

- providing land and supporting the redevelopment of existing sites/property to meet the diverse needs of different business sectors;
- supporting measures and initiatives which increase economic activity; and
- giving due weight to the net economic benefit of the proposed development...'

- 3.10 Policy STRAT 1 Committed Development repeats Policy COMD1 from the Local Plan in actively supporting the development of sites in industrial estates and Policy ECON 1 supports economic development, redevelopment or expansion of existing employment locations.
- 3.11 ECON1 adds that the economic use should be compatible with neighbouring uses and would not have a detrimental impact on the amenity of the area. This is also a requirement of Policy DEV 2 'Protecting Amenity within the Built-Up Area' which repeats Policy RP20 from the Local Plan.
- 3.12 However there is no policy in the LDP which sets criteria for landscaping or any other design criteria further to Policy DP2 of the Local Plan

Overview of Planning Policy and Material Considerations

- 3.13 Scottish Planning Policy introduces a presumption in favour of sustainable economic development and emphasises that planning decisions should support sustainable economic development, job creation and economic activity. This is reflected and expanded upon by development plan policy, which confirms particular support for such activities in established employment areas such as Pentland Industrial Estate.
- 3.14 It is also specified by policy that economic development should protect local amenity, although there is no specific guidance on how this should be addressed. There is a general requirement in the adopted local plan for landscaping to add interest to the appearance of all development, although this policy is not repeated in the new LDP. The Council has no supplementary guidance available on landscaping and there is no design guidance for the Pentland Industrial Estate, as there is for other industrial areas in Midlothian.
- 3.15 It is a well-established tenet of planning procedure that the development plan must be considered in the round rather than focusing on particular aspects of policy. In our opinion the acceptability of the fence requires a balanced assessment of the above policies, including emphasis on economic benefit, and we do not consider this has been achieved in the consideration of the proposal to date.

SECTION 4 PLANNING JUSTIFICATION

- 4.1 The Council's planning officials consider that the position and appearance of the security fence has such a detrimental impact on the character and amenity of the area that planning permission should be refused. We understand they consider the fence compromises the ambition for a high standard of visual amenity along Nivensknowe Road which is believed to be merited as it provides entry to the residential area of Loanhead to the east.
- 4.2 We acknowledge the officials have been consistent in this opinion both in consideration of application 16/00497/DPP and more recently of 17/00404/S42. However, in our view, whilst visual amenity is relevant, the importance attributed to it has been overstated in the context of relevant planning policy and the actual circumstances of the site.
- 4.3 The officers have also given no apparent consideration to the importance of retaining the position and function of the fence in maximising the site area, enabling access to the main building and ensuring high security. These are vital to the overall functioning of the site and ensuring the continuation of the strategically important vehicle recovery and storage operation carried out by the company and the forensic examination of vehicles carried out on site by the Scottish Police Authority. This economic justification has full support in planning policy, and the Local Review Body members are asked to make a balanced planning judgement taking account of the following factors.

1. Strategic Economic Importance of the Business

- 4.4 The location of the site at Nivensknowe Road and the vehicle recovery, storage, inspection and repair activities which are undertaken, constitute a business operation which is of strategic importance to the Scottish Police Authority.
- 4.5 Location - 911 is tasked by the SPA to achieve a 30-minute response time to attend any incident in and around Edinburgh. A strategic location is therefore important to access the motorways and main trunk routes of Edinburgh and to ensure they can be kept open following incidents. The Nivensknowe Road site is ideally located due to its accessibility to the City Bypass, the wider motorway and trunk road network, to urban Edinburgh and outlying areas.
- 4.6 When the company carried out its site search in 2016, this was the only site available for sale in the Edinburgh area with appropriate accessibility, sufficient yard space for vehicle storage and a building of adequate size and facilities to convert for the necessary forensic testing facility. If relocation was required, the company is doubtful a comparable site could be found.
- 4.7 Facilities – The site provides three related functions which enable it to operate as the regional hub for the vehicle recovery and inspection requirements of the Scottish Police Service. It provides storage capacity for recovered cars and HGVs, a building with state-of-the-art inspection bays for the forensic investigation of recovered cars and also an HGV testing/MOT facility.
- 4.8 Its location in the Pentland Industrial Estate and the investment it has brought to the locality can be regarded as a significant economic benefit. In our view, it is a business that constitutes sustainable economic benefit in terms of Scottish Planning Policy, and which accords with Policies COMD1 of the Midlothian Local Plan and STRAT1 of the Local

Development Plan. Considerable weight should be afforded to ensuring the business can be retained and thrive at Nivensknowe Road.

- 4.9 ***By contrast if its functions and facilities are unduly constrained then the capability of the site in fulfilling the SPAs requirements will be prejudiced.*** We now consider each of these functions in turn, to demonstrate the importance of retaining the fence in its current position.

2. Existing Position of Fence Required to Achieve Access to the Forensic Testing Facility

- 4.10 It is critical to the SPA that the forensic investigation of vehicles necessary in the crown prosecution process can be carried out at the site provided by 911 and this was a significant factor in the company being awarded the contract with FMG in 2016. Police Scotland lacked a bespoke forensic examination facility of this nature with the necessary on-site security measures in the Edinburgh region, or indeed the East Coast area as a whole. They had not received the required services from previous contractors and the previous operator lost their contract as they were unwilling to invest in additional security.
- 4.11 The facility is required as the police must carry out increasingly intensive and protracted examinations of vehicles in accordance with strict criteria. In particular the specialist facility is required for the SPA to negate any claims of cross contamination in multi-vehicle cases and to support the increasing use of forensic technology in their examination regime.
- 4.12 When vehicles are delivered to the site they are either stored in an external part of the site or taken into the holding area within the inspection building. When detailed inspection of the vehicles is required they are allocated individual 'garages' within the building for the Scene of Crime Officers to inspect the vehicles in sterile conditions.
- 4.13 The company has converted the existing building at the site, some 23,500sqft in total, which includes the state-of-the-art forensic examination bays in the southern section of the building. This is nearest the Nivensknowe Road frontage and a large access door has been built into the gable end of the building. This provides the sole, and bespoke, access to the forensic area. For delivery vehicles to use this door, access and egress is required across the area of land that formerly comprised the grass verge, and which is now part of the operational site.
- 4.14 The previous perimeter fence was close to the gable end of the building, as is evident from the Site Layout Plans. If planning permission is refused, and the new security fence must be repositioned closer to the building, it would no longer be possible to use this access door as it would result in insufficient manoeuvring space for the delivery vehicles.
- 4.15 There is also no possibility of an alternative access door being built in another part of the building either along the eastern elevation or the far end of the building. There are bespoke offices along the side elevation and the specialist HGV testing facility in the remaining part of the building would be compromised by introduction of a dual-purpose access. This is explained further below.
- 4.16 ***The retention of the new security fence in its existing position is therefore fundamental to the continuing operation of the forensic vehicle examination facility to enable sufficient manoeuvring space for vehicles to access and egress the building.***

3. Importance of Retaining the Bespoke HGV Facility

- 4.17 911 carry out MOTs and vehicle checks/repairs on vehicles of 3-5 tonnes or more, to VOSA standards (Vehicle Operator Standard Agency). This includes HGVs, trucks, coaches, mail vans, buses, etc. The rear section of the building has been substantially redesigned for this purpose including inspection pits, the addition of 6 goods doors along the east elevation facing the yard and a concrete apron. External storage is also required to enable 10 MOTs per day.
- 4.18 The company operates the HGV facility as a distinct enterprise, but it is also fundamental to the SPA's requirements. This is because larger vehicles, articulated vehicles, coaches, etc, which have been involved in fatal incidents are also brought to the site for inspection, as well as cars. These are often retained on site for over one month.
- 4.19 *Both the forensic testing facility at the front of the building and the larger vehicle inspection/repair facility at the rear of the building are crucial to the SPAs purposes. The location of test pits and other HGV infrastructure within the building preclude the introduction of an alternative access to the forensic car bays. The separation of the two facilities is also required to prevent any forensic contamination.*

4. Importance of the Site Frontage Area for Car Storage Capacity

- 4.20 The SPA requires 911 to provide a recovery operation of vehicles and deliver them to the site where they must be stored securely. This requires a large area for vehicle parking/storage. The external parts of the site have been laid out accordingly including a large compound at the rear (130 cars) and the area in front of the building with a further 24 spaces. These accommodate cars and other vehicles pending their examination, repair or collection. There is a further area of hardstanding in the central part of the site, but this is required for turning and manoeuvring of vehicles and is not available for parking/vehicle storage.
- 4.21 There is high level of crime in the Edinburgh area involving vehicles, and it is not uncommon for up to 70 vehicles to be recovered over a weekend. In the 12-month period that 911 fulfilled the SPA contract from Newbridge an average of 290 vehicles per month were recovered. Since moving to Loanhead this has increased to around 300 per month with expectation of further increase. This represents around 10-15% of all vehicles recovered in Scotland.
- 4.22 The amount of time each vehicle remains on site depends on the circumstances of the traffic incidents but in some cases the vehicles are retained for considerable periods. In a typical month some 70 vehicles may be 'on hold' at the site, representing 10% of all retained vehicles in Scotland.
- 4.23 Of all vehicles recovered, those requiring forensic examination comprise, on average, stolen vehicles (20%), others involved in crime (4%), burnt out vehicles (2%) plus others involved in road crashes.
- 4.24 Space for vehicle storage on the external parts of the site is therefore at a premium and the site is frequently at capacity. Every available part of the site is required.

- 4.25 The company recognised at the outset that it was necessary to utilise the grass verge/landscaping strip fronting Nivensknowe Road to achieve sufficient vehicle storage capacity. Accordingly, this area has been levelled and laid with hardstanding to achieve parking spaces for the additional 24 cars and the new security fence has been erected along the back of the pavement.
- 4.26 This land is of fundamental importance to the operation of the business in maximising the site's overall storage capacity for cars and vehicles, in addition to the compound area at the rear. This will only increase with the anticipated ongoing high turnover of vehicles.
- 4.27 There is a clear business need to use every available part of the site for operational purposes. *If the new security fence had to be moved into the site this will result in the loss of parking spaces and will fundamentally restrict the site's operational storage capacity.*

5. The Need for a High Security Fence

- 4.28 The site must be highly secure due to the nature of the vehicles recovered, the possibility of firearms or drugs remaining in the vehicles, and to ensure the forensic analysis of the recovered vehicles is not prejudiced.
- 4.29 High security is also necessary to prevent any attempts by the perpetrators of crimes to take back vehicles by force before forensic examination takes place. Serious criminals are keen to repatriate their 'goods' and will go to great lengths to prevent evidence being attributed to them.
- 4.30 Of importance there should be no visibility into the site through the external fence. This is to prevent criminals identifying the exact whereabouts of specific vehicles within the site and any journalists or members of the public seeking to view vehicles involved in particular incidents.
- 4.31 To ensure the required security the company has taken measures to operate the entire site as a secure car compound. This includes:
- a metal palisade fence around the entire perimeter of 2.2m height with a pulse-wire extending above (3m height total)
 - timber panelling fixed inside the palisade fence. This is required for added security but also to prevent visibility from outside
 - floodlighting of the yard, CCTV cameras
 - a security gate-house and a sliding security gate at the site entrance controlled from the gatehouse.
 - a visitors' car park is provided outside the security fence adjacent to the entrance. This is required as most visitors are not usually admitted to the site and are required to report to the gate-house.
- 4.32 All of these measures have been acknowledged as suitable and appropriate by the SPA and FMG, the managing agent for the police service.
- 4.33 The planning officials refer in the 'Delegated Worksheet' for application 17/00404/S42 (page 3, para 5) to the desirability of seeing through the fence to achieve visual permeability, as was possible with the wire perimeter fence previously at the site. Unfortunately, such a wire fence would be entirely inappropriate and not fit for purpose. The security of the site

requires a fence strong enough to resist considerable force and which must also prevent visibility of the vehicles stored. The nature of the criminality associated with some of the vehicles being recovered should not be underestimated.

- 4.34 ***The fence is fundamental to achieving the operational requirement. Its solid structure is necessary to ensure high security at the site. Notwithstanding this, the company is open minded on means to improve the appearance of the fence and has already taken some steps in this regard (below).***

6. Support from FMG and Police Scotland

- 4.35 FMG Ltd is the contract management company which acts for Police Scotland in managing the site and is the point of contact for 911 Rescue & Recovery.
- 4.36 The importance of the Nivensknowe Road operation is demonstrated by the letter to the company from FMG dated 21st July 2017 which is submitted in support of this Review. This confirms the support from the police service for the ongoing operation of the site by 911 and refers to the importance of the security measures which have been installed, including the high security fence.

7. Road Safety - Satisfactory Visibility Splays at Site Entrance

- 4.38 The site entrance is on the north side of Nivensknowe Road and is protected by an electronically controlled rolling entrance gate. It is usual for crashed vehicles to be brought in by a wrecker lorry with a trailer or on a flat-bed vehicle. Consequently, the entrance gate is set 15m into the site, back from the kerb. This allows the vehicles to pull in and stop in front of the gates without blocking the roadway.
- 4.39 Condition 3 of planning consent 16/004097/DPP states that the fence line of the security fence has:

'a detrimental impact on road safety...'

- 4.40 This derived from the consideration of Mr Gilfillan, the consultant acting for the Council's Policy & Road Safety team. His opinion was initially set out in a consultation response dated 11th August 2016 and subsequently, following submission of a revised proposed layout plan, in a further response dated 15th September 2016.
- 4.41 He expressed concern in both consultation responses that visibility available to drivers along Nivensknowe Road when leaving the site entrance was obscured by the new fence and was below the Council's required standard. The submitted plans indicated a visibility splay of 2.5m x 33m, but a requirement was specified by Mr Gilfillan of 2.4m x 70m.
- 4.42 The company reviewed the situation and it transpired that the visibility splay achieved at the site entrance, as-built, complies with the required 2.4m x 70m dimension. A further amendment to the proposed layout plan (Revision E) was accordingly submitted with application 17/00404/S42 in which the visibility splay is confirmed as 2.4m x 70m. This was supported by a photograph taken from the site entrance looking westwards, which demonstrates that oncoming traffic is visible at a distance greater than the minimum required of 70m, and that the visibility is not impeded by the new boundary security fence. The photograph is also submitted with this Review.

- 4.43 The revised visibility splay led to a consultation response from Mr Gilfillan for Policy & Road Safety dated 29th June 2017 which confirmed:

'I have no objection to the application'.

- 4.44 The response also included an addendum note which states:

'Given the specialised nature of the operation and the low usage of the entrance, the existing access arrangements appear to be operating well and I would not be looking for any alterations to the existing visibility splays.'

- 4.45 Despite this we note that the 'delegated worksheet', which sets out the detailed consideration by the planning officials, concludes (final page, para 5) that the current fence continues to obstruct the visibility splay and that this must be overcome by setting the fence further back into the site. We consider this opinion is wholly unfounded, being contrary to the professional advice received from the Council's transportation consultant, and we trust this will be recognised by the Local Review Body.
- 4.46 We also note that the reasons for refusal for application 17/00404/S42 make no reference to deficient visibility splays or any detriment to road safety. In our view this confirms that **this matter has been properly addressed, that Council standards are satisfied, and it is not a relevant consideration for the planning review.**
- 4.47 The alleged detriment to road safety was a fundamental concern for the Council planning officials allied to the visual appearance, as evident by the wording of Condition 3 of the 2016 consent. Now it has been confirmed that visibility of approaching traffic for vehicles departing the site is no longer a concern, the acceptability of the fence is concentrated solely on the consideration of visual impact and amenity.

8. Appropriate Visual Appearance of the Fence and Site Frontage

- 4.48 The company acknowledges that the solid nature of the fence is not of great attraction, but this is a consequence of the security measures required for the business to operate, and should be regarded as generally acceptable within industrial areas. However, and in recognition that this has caused concern, the company has sought to mitigate the appearance of the fence.
- 4.49 **Fence Painting** - The fence has now been painted an appropriate dark shade of green. This has the effect of removing the stark appearance of the silver metal palisades and providing a more appropriate backdrop visible to passers-by than the plain colour of the timber panels.
- 4.50 Should the Council consider that an alternative colour is preferred the company will accept a planning condition to that effect. It also pledges to maintain the appearance by repainting the fence after a designated period.
- 4.51 **Grass Strip** - There is a grass strip between the fence and the pavement. This is small by comparison to the previous landscaped verge; however, it does provide a degree of separation and contrast along the site frontage.

- 4.52 Shrub Planting - Shrubs have been planted around the edge of the visitor car park to provide a visual buffer to the residential property to the east, and to soften the appearance of this part of the site frontage when viewed from the road.
- 4.53 The shrubs used have been selected as similar to those widely used on other sites. However, the officials have indicated in the Delegated Worksheet (last page, para 3) that these do not reflect the style and species of the surrounding area. No details are specified but we presume this may refer to the buffer strip of shrubs on the south side of Nivensknowe Road opposite the site, in front of the Police Area Control building.
- 4.54 911 considers the shrubs planted are appropriate, however should the Council wish different or additional planting to be undertaken in the planting beds available the company will gladly discuss an appropriate solution, as per condition 4 of the 2016 consent

9. Compatible with the Character, Appearance and Visual Amenity of the Surrounding Area

- 4.55 The planning officials' opposition to the security fence is founded on the proposition that its unsightly appearance, and the lack of a landscaped strip between the fence and the road, are detrimental to the character and amenity of the immediate locality. It is also suggested that the site's location at the edge of the Pentland Industrial Estate requires a different standard of visual amenity than within the heart of the industrial area.
- 4.56 We acknowledge that Nivensknowe Road includes stretches of its frontage which comprise either a grassed verge or a buffer strip of mature shrubs/bushes. However, this is not continuous as there are certain uses particularly on the north side of the road with discordant frontages and only limited back from the road. Also, immediately adjacent to the company's site is a derelict house and a former petrol filling station now used as a car repair outlet. These are very unsightly. They have a low boundary wall which gives a hard edge to the road and zero planting or landscaping. The character of the locality is therefore mixed in terms of frontage quality.
- 4.57 It is also relevant to record that whilst Policy RP20 of the adopted local plan and Dev2 of the new LDP presume against detrimental impact to local amenity, this ambition is predominantly directed at residential areas rather than industrial areas.
- 4.58 Nivensknowe Road runs between two major business/industry areas with Pentland Industrial Estate to the north and Bilston Industrial Estate to the south. The Council's officers place weight on the 911 site being at the edge of the Pentland Estate in seeking to justify a higher level of amenity than normally expected in an industrial estate. However, it is a matter of fact that the site is at the centre of a much larger employment area comprising the two industrial estates and the officers' interpretation should be qualified by the corresponding adjacency to Bilston.
- 4.59 We consider that, notwithstanding the frontage treatment along the road, the immediate area is undeniably industrial in character and the impact on amenity must be considered in this context.
- 4.60 The company acknowledges that the replacement of the former grass verge in front of the subject site with an extended security fence represents a change to the previous position and that planning policy requires economic uses to respect local amenity.

- 4.61 In this context the company's significant investment in the site has resulted in a considerable overall improvement to its rather dilapidated condition which is to the benefit of the location. Against this background the painting of the fence and planting of shrubs carried out by the company can also be regarded as acceptable mitigation. The company is also willing to consider any further reasonable measures which may be suggested by the LRB members or planning officials for any further enhancement to the fence appearance.
- 4.62 In the Delegated Worksheet the planning officials state that the site is a *'highly prominent public area at the edge of the industrial estate where such fencing is not acceptable'*. Use of the expression 'public area' suggests a site which is a public gathering place such as a park or square, or which is otherwise in public ownership. This is misleading as there is no right of public access to the land. The impression is also given that the former site frontage contributed to an area of public realm. This is incorrect as the verge is part of the same ownership as the rest of the site and no other party has rights to use the land whether for landscaping, amenity ground or any other purpose.
- 4.63 It was apparent when the company acquired the site that various installations were in place on the verge. These included a lamp-post, a road sign and traffic monitoring equipment installed by the Council and water valves installed by Scottish Water. However, these had apparently been installed without owner's consent. The road sign has since been repatriated by Highways and it is incorrect of the officials to give the impression that the approval for the previous use of the site *'provided scope to retain important signage'*.
- 4.64 Neither the site nor the former verge has an established public presence, as suggested. On the contrary, the extent of public perception is the site's visibility to passing drivers on a public road.
- 4.65 Officers also suggest that Nivensknowe Road provides a public 'gateway' to the Loanhead residential area to the east. This is true to an extent, however the road remains a conduit through an industrial area and any 'gateway' effect is considerably dissipated by the very poor condition of the house plot adjoining the subject site to the east and the former petrol filling station beyond. These are the first properties in the residential area but provide a very poor level of amenity which detrimentally affects the subject site.
- 4.66 We understand there is an ambition within the planning department to require a landscape verge along the roadside whenever opportunity arises. However, we would point out there is no specific planning policy, nor planning brief nor supplementary planning guidance for Pentland Industrial Estate or Nivensknowe Road which details any specific requirement for landscaping or sets any standards for amenity. Any such ambition therefore has no specific status in development plan policy or supplementary guidance.
- 4.67 It is quite possible to take the contrary view to the planning officials and conclude that the extent of grass verge and planted areas along Nivensknowe Road provides ample landscaping such that there is capacity to absorb a short stretch comprising the frontage of the subject site which does not offer this design feature.
- 4.68 We have set out above a justification based on operational business grounds for the retention of the security fence in its present position, without a landscape buffer along the road frontage. We consider this has strong merit in accordance with the presumption in favour of sustainable economic development in the SPP and with economic policy in the local plan and emerging LDP.

- 4.69 Taking this into consideration, it must lead to a balanced judgement being made regarding any impact on the amenity of the area. In that regard we invite the LRB to recognise that the detrimental impact on amenity asserted by the Council's officials is over-stated, and that the measures undertaken by the company to improve the appearance of the fence by painting and planting will enhance the amenity of the area, thereby justifying approval of application 17/00404/S42 in conformity with Policy RP20 of the Midlothian Local Plan.

SECTION 5 CONCLUSION

- 5.1 We consider that the refusal of the security fence in its current position by planning officials has failed to take into account the strategic economic importance of the overall operation of the site. The fence in its current format is particularly important in maximising vehicle storage, enabling access to the principal building and in achieving the required security measures. Emphasis has only been given to the appearance, amenity and road safety considerations. Whilst these are relevant, we consider they are outweighed by other matters and their impact has been overstated.
- 5.2 The reasons for refusal of the existing fence are based on the desire expressed by planning officials to achieve a high standard of amenity along the Nivensknowe Road frontage which they consider is compromised by the physical appearance of the fence and the loss of the previous grass verge.
- 5.3 The company's justification for retaining the fence in its existing position is based on two areas of consideration:

Business Need

- 5.4 If planning permission is refused and the security fence must be moved back from the Nivensknowe Road frontage, it will cause such logistical difficulty in continuing to operate at the site *that the company will be forced to relocate*. This derives from the crucial importance to the business of that part of the site between the fence and the operations building, which formally comprised the grass verge, in two regards:
- i) It provides access to the main door in the gable end of the operations building and is necessary for vehicles to manoeuvre in and out, but would become too cramped for this purpose. This door is the sole access to the forensic testing facility carried out in this part of the building which is the core function of the business. There is no prospect of an alternative access being used in another part of the building due to constrained building dimensions and the disruption this would cause to other facilities.
 - ii) It provides an external area laid out with 24 parking spaces which are vital to achieving the overall car storage capacity in addition to the vehicle compounds at the rear of the site. The site is frequently at full capacity and any reduction would compromise the overall business.
- 5.5 911 specialise in the recovery of damaged and crashed vehicles, and the site is used for the storage and processing of vehicles for the specific purposes of the Scottish Police Authority (SPA). This includes a specialist vehicle inspection operation carried out within the building which is the SPA's principle facility of this nature for the whole of Edinburgh and the Lothians region. The business should therefore be regarded as having strategic importance and given considerable weight by the Council in any planning determination.
- 5.6 The site at Nivensknowe Road was the only suitable facility found from an extensive site search carried out by 911 around Edinburgh in 2016 and it would be of great concern if a further relocation was required.

Amenity Considerations

- 5.7 To achieve the high level of security required for the business the fence must be sufficiently robust to prevent intruders and prevent visibility into the site. A wire mesh fence, or similar, would simply not be effective.
- 5.8 In recognition of concerns over the appearance of the fence, the company has sought mitigation by:
- i) Planting of shrubs and foliage around the visitors' car park area adjacent to the site entrance,
 - ii) Painting the fence a dark green colour seeking to blend with the boundary treatment along the road.
- 5.9 These measures have the effect of softening the appearance of the fence, and the company is willing to consider further enhancement in agreement with the Council if the LRB considers appropriate.
- 5.10 The company considers that the ambition expressed by planning officials for landscaping and high amenity levels, whilst well intentioned, must be balanced by the circumstances of the site:
- i) This is a site within the Pentland Industrial Area, one of the prime employment areas in Midlothian, where emphasis should be given to job creation and business investment. A fence of this nature is not uncommon in an industrial area.
 - ii) The company's investment has included major ground works and improvements to the building that have significantly enhanced the overall appearance of the site to the benefit of the locality.
 - iii) The disused house and former petrol garage immediately adjacent to the east of the site are unsightly and present a very poor standard of amenity as a 'gateway' to the Loanhead residential area. With such an unsightly and visually prominent neighbour, the company is perplexed why such a high standard of amenity should be required at its own site, and generally along Nivensknowe Road, despite being located within the designated industrial estate.
 - iv) The amenity standards sought by planning officials do not appear to be supported by planning policy, a development brief or other policy guidance.
- 5.11 In considering all aspects of amenity, the Local Review Body is urged to recognise the importance of retaining the fence in its current position to ensure this strategically important business can continue trading.
- 5.12 The retention of the fence benefits from the presumption in favour of sustainable economic development put in place by Scottish Planning Policy. It also accords with SESPLAN, Policy

COMD1 of the adopted Local Plan and Policies STRAT1 and ECON1 of the emerging Local Development Plan. The amenity measures proposed are in conformity with Policy RP20 of the Midlothian Local Plan.

- 5.13 We respectfully submit that the proposal can be approved as being in conformity with the development plan. We request that the refusal of application 17/00404/S42 is reversed by the Midlothian LRB and planning permission is granted.

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

Your Ref
Our Ref Loanhead

FMG
THINKING AHEAD

21st 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 is 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 have 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

REFUSED
07.07.2017
17/00404/S42

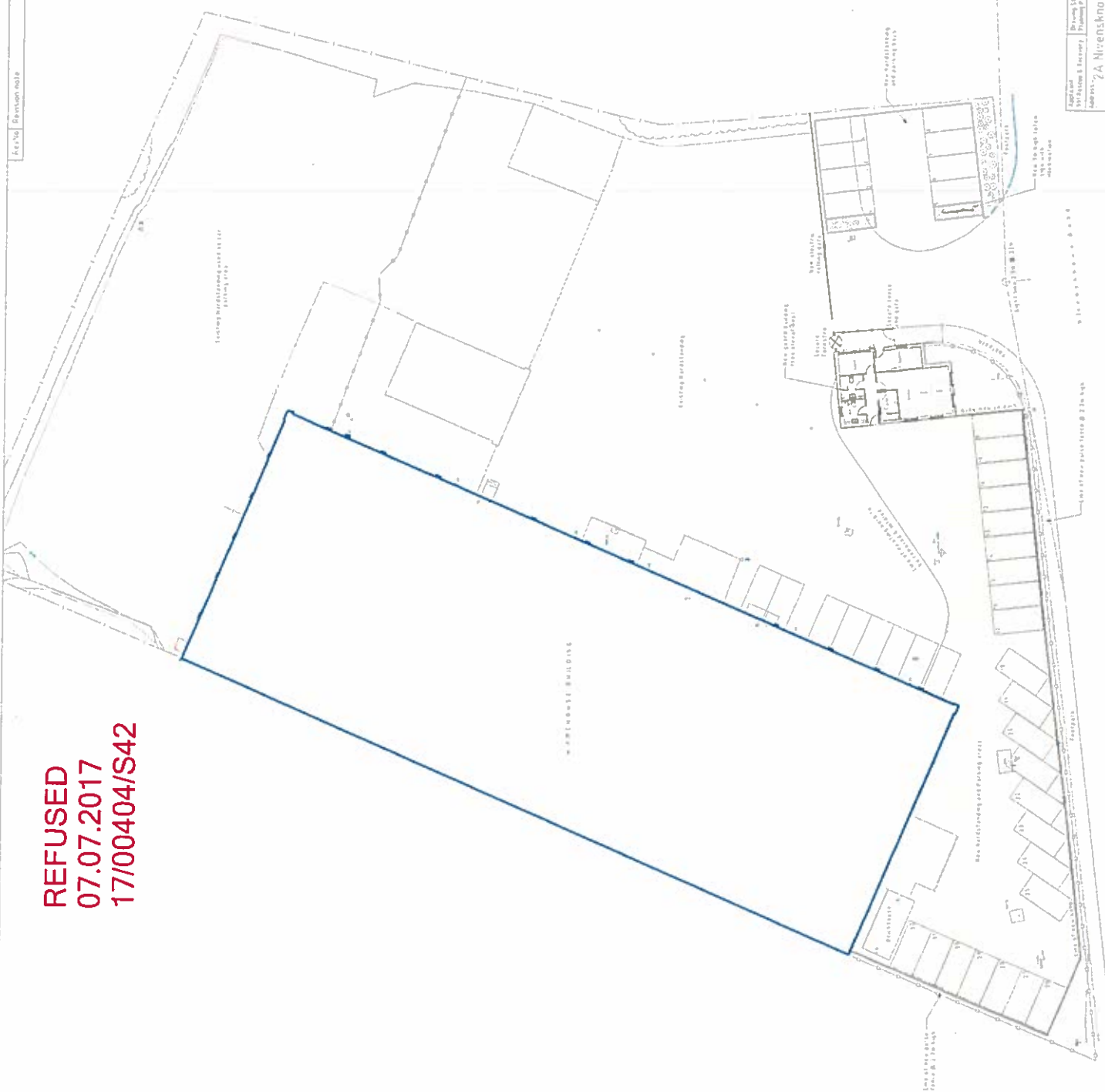
Survey UK Ltd
12 Aber Street, Edinburgh, E2 4DG
Tel: 0131 220 0000
Email: info@surveyuk.co.uk
Website: www.surveyuk.co.uk

Key No Revision Note Date Signature (checked)

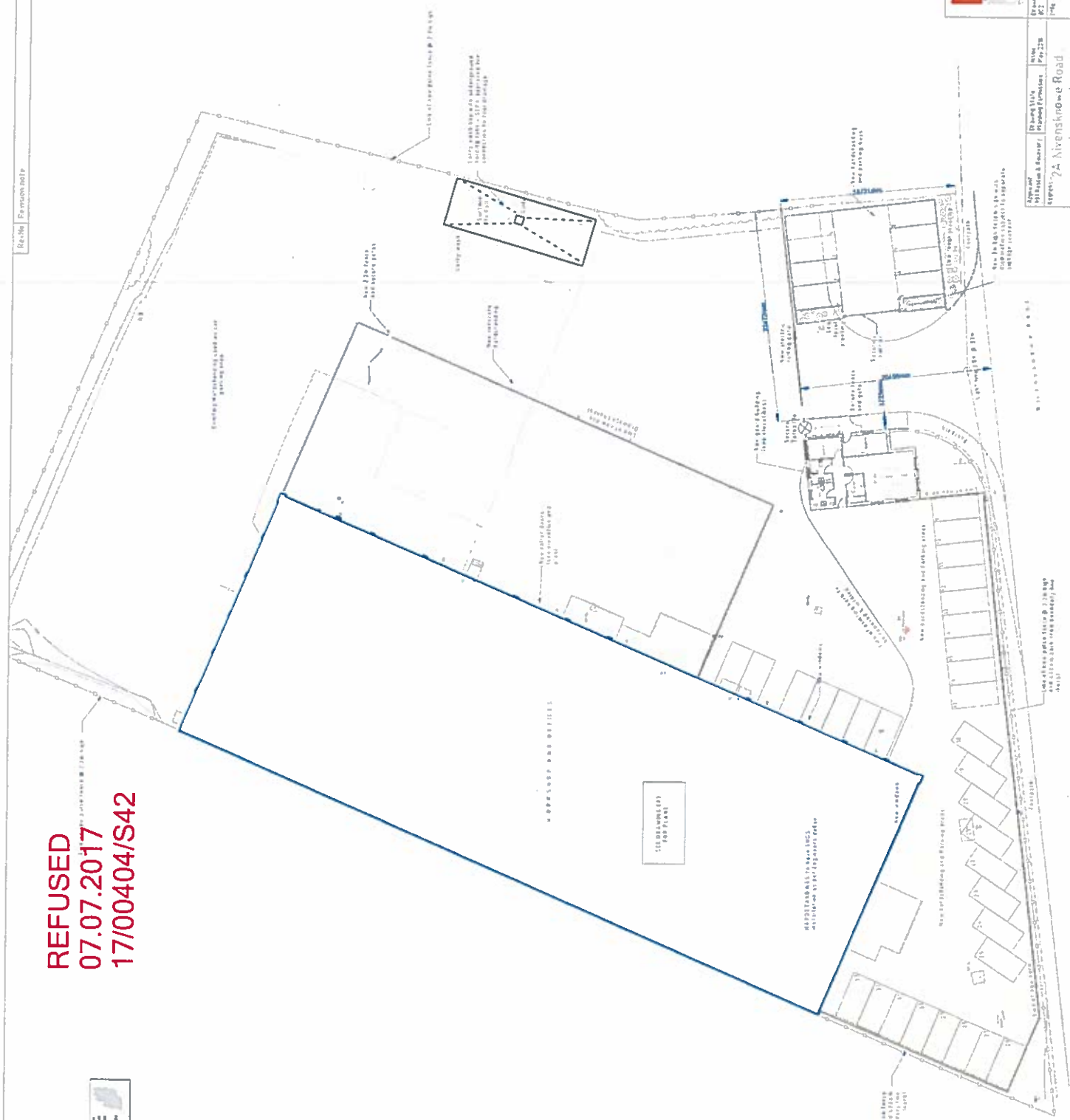


Survey UK Ltd
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Website: www.surveyuk.co.uk

Applicant	2A Nirensknowe Road, Loanhead
Project Name	Proposed Site Plan
Survey Number	17/00404/S42
Scale	1:500
Date	07.07.2017
Signature	



REFUSED
07.07.2017
17/00404/S42



Survey UK
 17 Ainslie Street, Edinburgh, E14 6DD
 Tel: 0131 622 2222
 Email: info@surveyuk.co.uk

Drawing Number: 17/00404/S42
 Date: 07/07/2017
 Scale: 1:1000

Prepared Site Plan

Site Name: 17 Ainslie Street, Edinburgh, E14 6DD
 Drawing Title: Proposed Site Plan
 Drawing Number: 17/00404/S42
 Date: 07/07/2017
 Scale: 1:1000

Site Name: 17 Ainslie Street, Edinburgh, E14 6DD
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Site Name: 17 Ainslie Street, Edinburgh, E14 6DD
 Drawing Title: Proposed Site Plan
 Drawing Number: 17/00404/S42
 Date: 07/07/2017
 Scale: 1:1000

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 it's 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:

- 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.*
- 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

Website: 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

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

This Standing Advice is valid from 1st January 2015 until 31st 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 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.