

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 20 November 2017; and
- Have determined to progress the review by way of a hearing.

4.2 The case officer's report identified that one consultation response and no representations have been received. As part of the review process the interested party was notified of the review. No additional comments have been received. Comments can be viewed online on the electronic planning application case file via www.midlothian.gov.uk

4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:

- Identify any provisions of the development plan which are relevant to the decision;
- Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- Consider whether or not the proposal accords with the development plan;
- Identify and consider relevant material considerations for and against the proposal;
- Assess whether these considerations warrant a departure from the development plan; and
- State the reason/s for the decision and state any conditions required if planning permission is granted.

- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

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

6 Recommendations

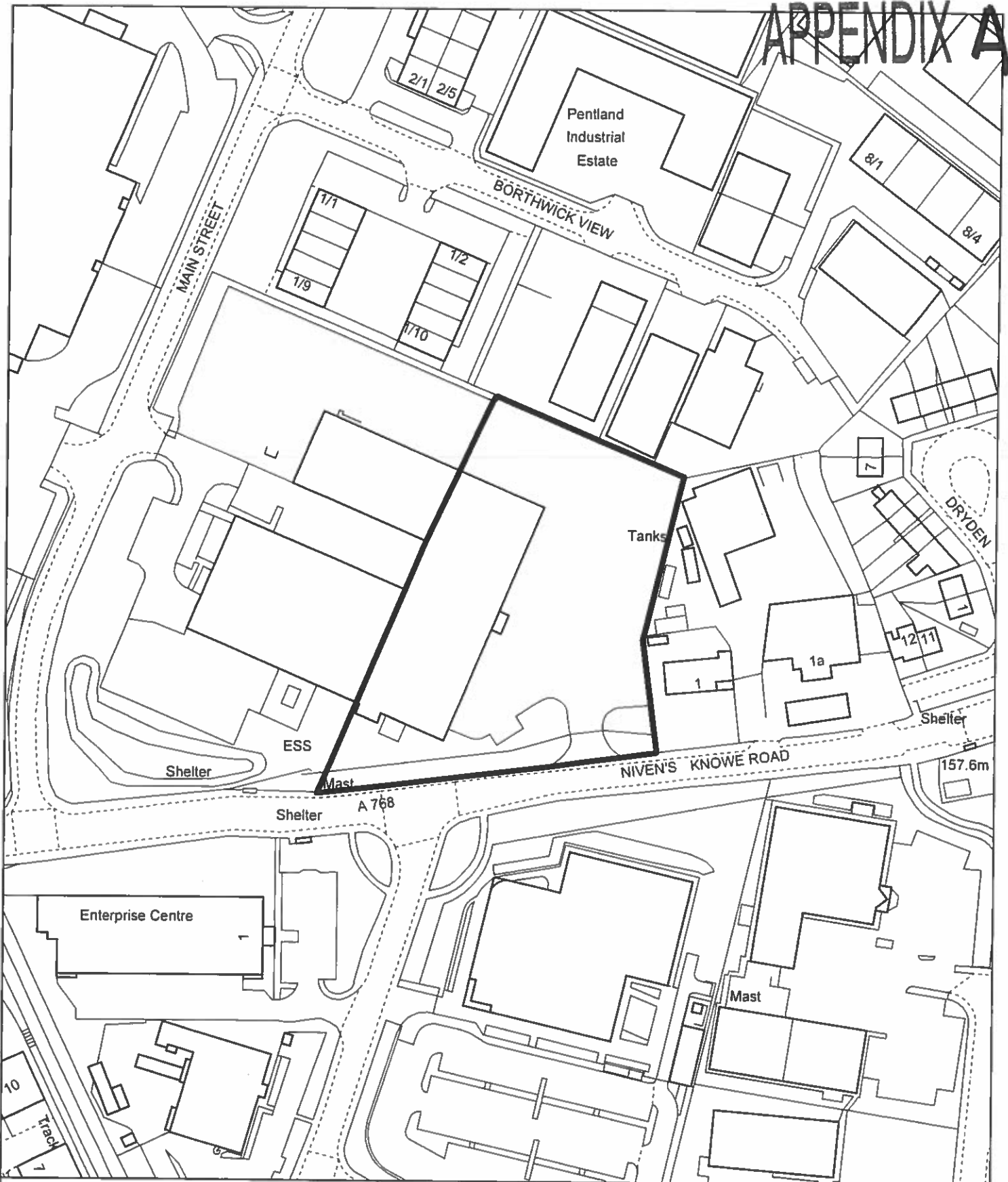
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 14 November 2017

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

Tel No: 0131 271 3310

Background Papers: Planning applications 17/00404/S42 and 16/00497/DPP are available for inspection online.



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

2A Nivensknowe Road, Loanhead

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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

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

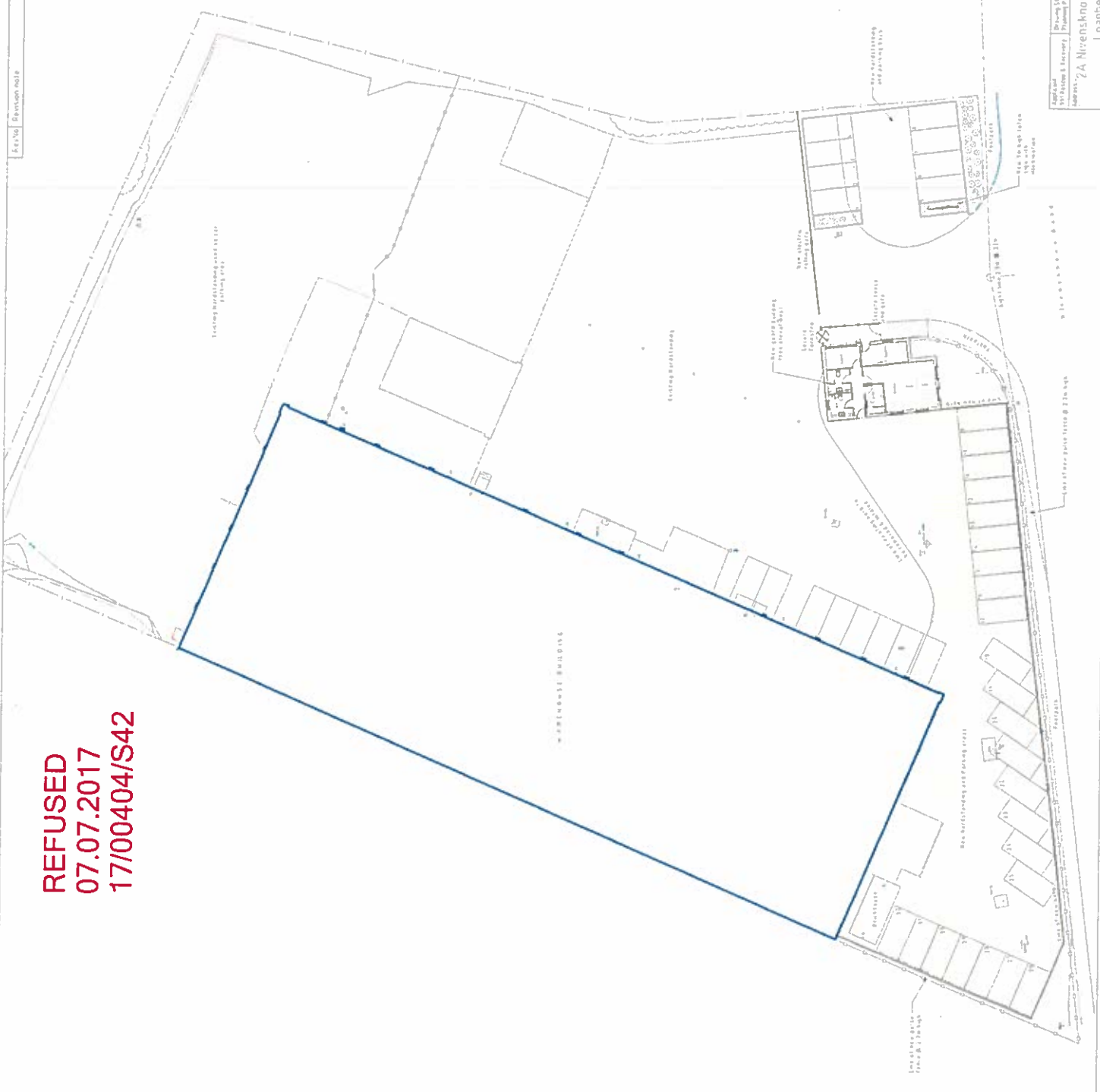
Survey UK Ltd
12 Aber Street, Edinburgh, E2 4DG
Tel: 0131 222 1999
Email: info@surveyuk.co.uk
www.surveyuk.co.uk

Key No Revision Note Date Signature (checked)

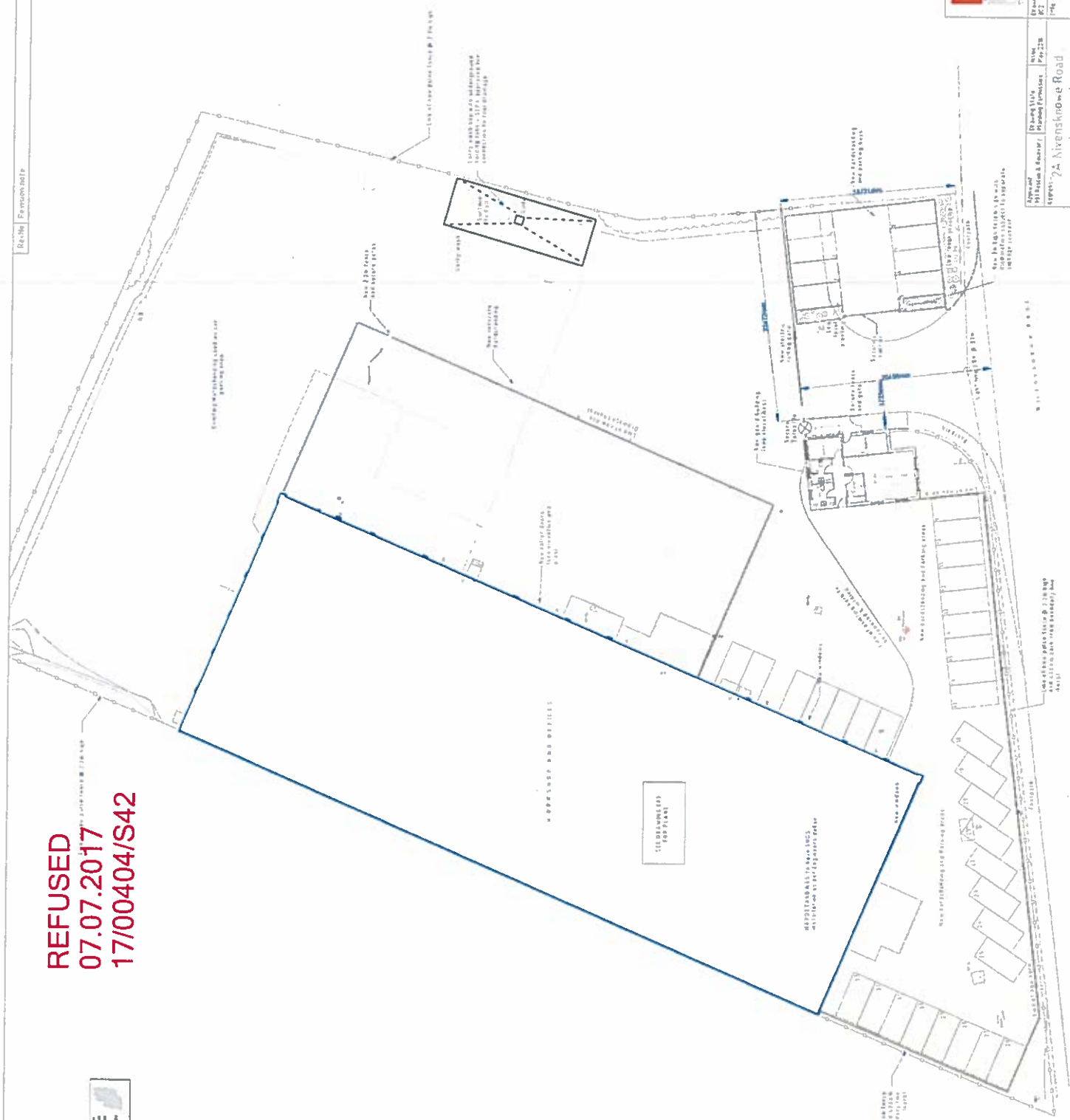


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www.surveyuk.co.uk

Applicant	2A Nirensknoe Road	Sheet	1 of 1
Address	2A Nirensknoe Road	Scale	1:500
Project Name	Proposed Site Plan	Drawn	17/07/2017
Drawn	17/07/2017	Checked	17/07/2017
Project Number	17/00404/S42	Project	17/00404/S42



REFUSED
07.07.2017
17/00404/S42



Survey UK
 17 Ainslie Street, Edinburgh, E14 0QD
 Tel: 0131 555 5555
 Email: info@surveyuk.co.uk

Project Name: 17 Ainslie Street, Edinburgh, E14 0QD
 Project Ref: 17/00404/S42
 Date: 07.07.2017
 Signature: [Signature]
 Stamp: [Stamp]

17 Ainslie Street, Edinburgh, E14 0QD
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 07.07.2017
 17/00404/S42

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

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.....
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, consisting of a stylized 'D' and 'R'.

.....
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.