



APPLICATION FOR PLANNING PERMISSION 23/00595/DPP FOR FORMATION OF RECYCLING FACILITY AND WASTE TRANSFER STATION; CONTINUATION OF LANDFILL OPERATIONS AND ASSOCIATED WORKS AT MIDDLETON LIMeworks, GOREBRIDGE

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the formation of recycling facility and waste transfer station; continuation of landfill operations and associated works for a 17-year time period at the former Middleton Limeworks Quarry, Middleton, Gorebridge.**
- 1.2 There have been 20 representations and a petition submitted objecting to the planning application, as well as consultation responses from the Scottish Environment Protection Agency (SEPA), Transport Scotland, Moorfoot Community Council, the Council's Archaeology Advisor, the Council's Ecological Advisor, the Council's Senior Manager Protective Services and the Council's Senior Manager Neighbourhood Services (Roads).**
- 1.3 The relevant development plan policies are policies 1, 2, 3, 9, 12, 13, 22, 23 and 29 of the National Planning Framework 4 (NPF4) and policies RD1, ENV7, ENV10, ENV11, ENV15, ENV17, ENV18, ENV24, ENV25, WAST1 and WAST3 of the Midlothian Local Development Plan 2017. The development also falls within the definition of a national development as defined in NPF4.**
- 1.4 The recommendation is to grant planning permission subject to conditions.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site relates to the lower quarry at Middleton, also known as quarry 1. The site is a former limestone quarry, located in the countryside but relatively close to North Middleton. The site measures approximately 10.96 hectares, with the proposed infill area being approximately 5.15 hectares. The site comprises the quarry void, with quarry faces, and soil storage bunds on the periphery of the void and areas of quarry spoil within the void. The quarry has been partially filled.**

- 2.2 The quarry is accessed from a point off an unclassified road that runs in an east to west direction to the north of the application site. The unclassified road is accessed from Guildie Howes Road, which in turn is accessed from the A7, adjacent to North Middleton.

3 PROPOSAL

- 3.1 This application is for detailed planning permission for the formation of a recycling facility and waste transfer station; continuation of landfill operations, and associated works for a 17-year time period. The 17 years will comprise the following periods:
- One year to allow for the installation of the recycling plant infrastructure;
 - 15 years recycling and waste transfer operations; and
 - One year to restore the site.
- 3.2 Planning permission is being sought for the recycling of imported materials along with the recycling of material which has already been placed within the quarry void and for the infilling of the landfill void space with inert materials, which are not suitable for recycling, and filter cake from the recycling process, which is classed as non-hazardous waste.
- 3.3 The submitted supporting statement outlines that the development proposal shall continue to utilise the existing office and weighbridge which are located at the quarry site access. Additional welfare facilities will be provided for the recycling personnel adjacent to the recycling plant. The proposed recycling plant and infrastructure is to be sited on the southeastern corner of the site in an area measuring approximately 1.1 hectares. The land is to be cut into three levels at 244m AOD – 240m AOD with the processing plant staged across these three levels. The development of the recycling facility comprises a modular assembly of plant and equipment, including hoppers, crushers, conveyor belts and tanks. The equipment has a bespoke appearance and has a maximum height of 12.2m when measured from ground level. The plant and equipment comprise that which is currently on the site of Yards 1 and 2 at Mayfield Industrial Estate. Immediately to the southeast of the recycling plant area it is proposed to create a 3m high screening mound along the southeastern application boundary. The screening mound will initially be grass seeded, and then planted to scrub/woodland. It is proposed to utilise the area to the west of the landfill area for water management.
- 3.4 The existing site access is to be utilised; the first 110 metres between the entrance and the existing wheel bath and shakers is to be resurfaced in concrete. The proposal also includes the siting of an additional wheel and body wash adjacent to the shaker. Parking facilities are currently available adjacent to the site office and additional

parking spaces are to be provided on the western side of the site access; a total of 18 parking spaces will be available at the site.

- 3.5 The development proposal seeks to continue with the current permitted hours which were granted to the infilling operation previously, which are 08.00 to 19.00 Mondays to Fridays, and 08.00 to 12.00 Saturdays with no working on Sunday.
- 3.7 Following the completion of reworking the site, recycling and infilling, restoration will be undertaken over a period of one year with all plant being removed from the site. The remaining land will be graded, soiled and seeded. Woodland and scrub planting will be undertaken in designated areas. The restoration of the site includes the formation of recreational paths through the site.
- 3.8 The application is accompanied by:
 - Screening Opinion;
 - Middleton PAC Report;
 - Preliminary Ecological Appraisal;
 - Tree Survey;
 - Noise Impact Assessment;
 - Coal Mining Risk Assessment; and
 - Supporting Statement and Environmental Review

4 BACKGROUND

- 4.1 In March 1982 planning permission ref.198/81 was granted for the extraction and working of limestone on both Middleton Quarry No.1 and No.2. Planning permission 198/81 was implemented.
- 4.2 In December 2012 a Breach of Condition Notice was served on Leiths (Scotland) Limited; who were the operator of the Middleton Quarry. The notice required them to take action in relation to conditions attached to planning permission 198/81, in particular those conditions requiring the infilling of the quarry and its restoration to an agricultural use by the 19 December 2016. The Breach of Condition Notice only required the reinstatement of No.2 quarry (the upper quarry) and the planning authority is currently investigating whether the notice has been complied with.
- 4.3 Planning permission 15/00503/DPP for the infilling of quarry 1 (the lower quarry) was granted subject to conditions (this application was accompanied by an environmental statement prepared under the environmental impact assessment (Scotland) Regulations 2011). The consent was subject to a time limitation condition which required the works to be completed within seven years of commencement.
- 4.4 A section 42 application 22/00546/S42 to amend condition 1 of planning permission 15/00503/DPP (infilling of quarry), to extend duration of temporary permission, and condition 3, to allow the

acceptance of non-hazardous waste, was granted permission subject to conditions in January 2023.

- 4.5 A section 42 application 23/00773/S42 to amend condition 1 and 6 of planning permission 22/00546/S42, to extend the timeframe of operation at the application site is currently pending consideration (and is also on the Jun 2024 Committee agenda). The applicant has advised that should the application the subject of this report be approved then there would be no requirement to proceed with planning application 22/00773/S42.
- 4.6 The applicant carried out a pre-application consultation (22/00856/PAC) in relation to the current planning application for the recycling facility and landfill operations in January and February 2023. The pre-application consultation was reported to the Committee at its meeting in January 2023.
- 4.7 As part of the assessment of the current application the planning authority issued a screening opinion for the current proposals on 20 December 2022. The screening opinion confirmed that an Environmental Impact Assessment (EIA) was not required.
- 4.8 The capacity of the application facility is or exceeds 25,000 tonnes per annum and therefore the planning application would ordinarily be treated as a Major Development as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. In this instance, as the planning application relates to facilities for managing secondary materials and is of a major development scale it must be considered to be a National Development in terms of the National Planning Framework 4. All planning applications for National Developments must be determined by the Planning Committee and are subject to a pre-determination hearing.
- 4.9 The associated pre-determination hearing for this planning application was held on the 21 May 2024. The Committee also undertook a site visit on the 21 May 2024.

5 CONSULTATIONS

- 5.1 The **Coal Authority** have not yet provided a consultation response but this is expected shortly. A decision notice cannot be issued until a response is received from this statutory consultee.
- 5.2 The **Scottish Environment Protection Agency (SEPA)** does not object to the application and advised that as this is an inert waste site which already has a pollution prevention and control (PPC) permit they are content that any SEPA issues would be dealt with via the permit variation. Overall, SEPA have no comment to make on the planning application itself.

- 5.3 As the A7 is a trunk road it was necessary to consult **Transport Scotland**, who do not object to the application.
- 5.4 **Moorfoot Community Council (MFCC)** objects to this planning application due to the negative impact on the area of the activities carried out to date, which would be amplified further by the formation of the recycling facility and waste transfer station. The concerns raised by MFCC can be summarised as follows:
- The significant amount of HGV traffic (50-60 round trips a day given that the site operates from 7am to 6pm with a 6-day working week);
 - The accidents that have *nearly* occurred at the A7 junction as HGVs join or leave the A7;
 - The excessive amount of caked mud plastered across the A7 and the Guildie Howes Road produced by HGV site traffic, clouds of dust in the area given the dirty roads, as well as potholes and other forms of damage to the road which have not been fully repaired by Midlothian Council Roads department;
 - The volume of rubble now distinctly visible above ground level from roads near to the site suggests the capacity of infill stated in the original application of 660,000 cubic metres for the main quarry void has been exceeded;
 - Lack of records of the volume and nature of the loads already deposited;
 - Lack of measures in place to limit pollution and excess surface water at the site;
 - Leachability due to the disposal of non-hazardous waste, lime quarry and surrounding hydrogeology and ground water flow to the Middleton Burn;
 - Allowing infill of a disused lime quarry to operate as a landfill and provide unregulated disposal of a wide range of materials, potentially inert, as well as those assumed to be non-hazardous creates a precedent;
 - The proposed development conflicts with Scotland's strategies for environmental conservation and sustainability, endangering wildlife, habitats, and natural resources;
 - The development undermines Scotland's Land Use Strategy 2016-2021 and contradicts governmental policies aimed at preserving the environment; and
 - At odds with Scotland's vision for a transformed and environmentally resilient future and conflicts with the aims of the climate emergency declared by the Council.
- 5.5 The **Council's Archaeology Advisor** does not object to the application but noted that based on the submitted plans the advanced tree planting proposed along the northwest boundary is located within a recorded area for a cropmark site therefore the applicant will be made aware of the potential for historic remains to be impacted.

- 5.6 The **Council's Ecological Advisor - The Wildlife Information Centre (TWIC)** does not object to the application but advised that due to the time that has elapsed since the Preliminary Ecological Appraisal report was produced the survey work / report will require to be updated. Whilst the findings of the report did not flag any concerns in terms of protected species an updated Preliminary Ecological Assessment Report has been requested from the applicant. They are in the process of preparing this. If planning permission is granted the updated Preliminary Ecological Assessment Report must be received and raise no adverse impacts on protected species. If no issues are raised in the updated report then appropriate conditions could be attached to the decision notice.
- 5.7 The **Senior Manager Protective Services (Environmental Health)** does not object to the application but has highlighted matters for consideration with regard to the application in relation to noise disturbance affecting neighbouring noise sensitive dwellings and potential impacts on air (as a result of dust) and water quality. The Senior Manager Protective Services noted that the applicant commissioned a Noise Impact Assessment to be carried out by noise consultants which concluded that there will be no significant noise impact on the surrounding community by the proposed new activities – this position is accepted.
- 5.8 There is a likelihood of windblown dust from the stockpiles of processed and unprocessed recycling material affecting the nearest sensitive receptors and also the households in the wider area and environment encompassing North Middleton and Middleton. An air quality impact assessment should be submitted which details the steps to be taken to prevent windblown particulate matter emissions. Continuous monitoring should be carried out at the site boundary and if planning permission is granted conditions should be used to secure noise mitigation, vehicle movement restrictions, dust management, road and vehicle cleaning and private water supply monitoring.
- 5.9 The **Council's Senior Manager Neighbourhood Services (Roads)** does not object to the application and advised that the major junction used to access the site has been designed to a *Design Manual for Roads and Bridges* standard and has sufficient sight lines. No concerns have been raised regarding accidents at the A7/Guildie Howes Road junction. There will be no significant impact on traffic volumes as a result of this application, and as such the impact on the road network will be slight.
- 5.10 The consultation responses are available to view in full on the online planning application case file.

6 REPRESENTATIONS

6.1 There have been 20 representations received and a petition with 165 signatures, which can be viewed in full on the online planning application case file. All representors objected to the application. A summary of the main points raised are as follows:

- Concerns relating to the impact on the environment and biodiversity;
- Concerns relating to impact upon public safety including pedestrian and cyclists;
- Concerns relating to the increase in noise and air pollution from operations and cleaning;
- Concerns surrounding air pollution and impact upon health;
- The noise survey did not assess the site activities at the busiest times and therefore is not a true representation;
- Concerns relating to the impact upon community well-being;
- Concerns regarding the financial impact on residents surrounding the quarry;
- Concerns regarding the increase in traffic and impact on the countryside;
- Concerns relating to the increase in debris from the site that spreads over to Middleton and causing a nuisance especially in the summer months;
- Concerns relating to the number of local vehicles damaged or people being hit from debris/stones coming from the roads caused by NWH vehicles and the roads not being swept regularly;
- Concerns regarding the impact upon the landscape and the introduction of additional large machinery;
- Concerns regarding the impact of light and noise on bats;
- Concerns of potential contamination of surface water and local burn/water course;
- Recycling facilities are best placed within established economic development sites/industrial estates that are allocated for business, general industrial, or for storage and distribution uses;
- Noted that no policy support for this development in rural area; and,
- Questioned who would monitor the site to ensure future compliance.

7 PLANNING POLICY

7.1 The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan 2017. The following policies are relevant to the proposal:

National Planning Framework 4 (NPF4)

- 7.2 Policy **1 Tackling the climate and nature crises**; sets out to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.
- 7.3 Policy **2 Climate mitigation and adaptation**; sets out to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.
- 7.4 Policy **3 Biodiversity**; sets out to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.
- 7.5 Policy **9 Brownfield, vacant and derelict land and empty buildings**; sets out to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.
- 7.6 Policy **12 Zero Waste**; sets out to encourage, promote and facilitate development that is consistent with the waste hierarchy.
- 7.7 Policy **13 Sustainable Transport**; sets out to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.
- 7.8 Policy **22 Flood risk and water management**; sets out to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.
- 7.9 Policy **23 Health and Safety**; sets out to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing.
- 7.10 Policy **29 Rural development**; sets out to encourage rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced.
- 7.11 NPF4 identifies 18 national developments. These are significant developments of national importance. National development 4 relates to circular economy materials management facilities. NPF4 states that *this national development helps maximise Scotland's potential to retain the energy and emissions values within materials already in the economy*. While NPF4 agrees the principle of these national

developments they still require to progress through the normal consenting regime.

Midlothian Local Development Plan 2017 (MLDP)

- 7.12 Policy **RD1: Development in the Countryside** states that development in the countryside will only be permitted if it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation or tourism; it accords with policies RD2 (low density rural housing), MIN1 (mineral extraction), NRG1 (renewable and low carbon energy projects) or NRG2 (wind energy); or it accords with the Council's Supplementary Guidance on *Development in the Countryside and Green Belt*. For housing, this is limited to homes required to support an established countryside activity.

With regard to business in the countryside policy **RD1** states that development opportunities that will enhance rural economic development opportunities will be permitted if:

- They are of a scale and character appropriate to the rural area and well integrated into the rural landscape; and
- They are capable of being serviced with an adequate and appropriate access; and
- They are capable of being provided with drainage and a public water supply at reasonable cost, or an acceptable private water supply, unacceptable discharge to watercourses; and
- They are accessible by public transport and services (where appropriate); and
- They are not primarily of a retail nature; and
- They do not harm the amenity of nearby residents through unacceptable levels of noise, light or traffic.

- 7.13 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.

- 7.14 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment.

- 7.15 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or

indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

- 7.16 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.17 Policy **ENV17: Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts.
- 7.18 Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.
- 7.19 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.20 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.
- 7.21 Policy **WAST1: New Waste Facilities** states that the Council will support the formation of new facilities for waste in principle, where they contribute to the sustainable treatment of waste set out in the waste hierarchy and the Zero Waste Plan. The location of waste facilities is supported on sites in the established economic land supply that are allocated for business, general industrial or storage and distribution uses, subject to the Council being satisfied that there is no adverse impact on sensitive uses, including from the transport movements associated with the development.
- 7.22 Policy **WAST3 (Landfill)** presumes against new landfill development other than as part of a site restoration project. Proposals will only be allowed if there are no significant negative environmental impacts, including from traffic movements. A buffer of 250 metres will be required between a landfill site and any sensitive receptors (primarily residential properties). Applicants will be required to submit proposals for site restoration and aftercare and demonstrate that robust financial arrangements are in place to ensure site restoration.

- 7.23 Also material to the consideration of the application is **Scottish Government's Planning Advice Note 64: Reclamation of Surface Mineral Workings**. Pan 64 also states that the then Scottish Executive (now Scottish Government) considered that financial guarantees are an appropriate means of reassuring local communities of operators' commitment and ability to meet their restoration and aftercare obligations.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

The Principle of Development

- 8.2 While the development proposal comprises a combined waste transfer/recycling operation and a landfill operation it is helpful to consider each of these functions in turn, prior to considering the merits of the two functions together.
- 8.3 The operation of a waste transfer/recycling facility, as proposed, falls within the definition of national development 4 of NPF4. These types of facilities are provided general support in principle by NPF4 as they seek to retain the resource value of materials, in order that their full value can be secured and in order to reduce the reliance on virgin materials. There is also an aspiration that greenhouse gas production can be reduced through greater advances in the circular economy. NPF4 makes specific reference to the significance of this support for the construction and demolition industries and decommissioning industry.
- 8.4 In addition to the support provided through the development being considered a national development NPF4 also contains policy 12 which requires development proposals to reduce, reuse, or recycle materials in line with the waste hierarchy. The policy states that development will be supported where they minimise waste, reduce pressure on virgin resources and salvage materials for reuse.
- 8.5 Policy WAST1 of MLDP states that the Council will support the formation of new facilities for waste in principle, where they contribute to the sustainable treatment of waste set out in the waste hierarchy and the Zero Waste Plan. Policy WAST1 does not preclude any particular locations for siting these facilities.
- 8.6 The waste transfer/recycling facility proposed through this application involves the processing of material obtained from demolition and other

decommissioning projects. The process involves the transformation of this demolition material into a secondary product which can be used for a variety of other purposes, including in the construction industry. The process is the type of operation which NPF4 sets out to support and, in itself, supports the circular economy and reduces the need for large quantities of material, with considerable value, from being deposited in landfill.

- 8.7 The second part of the proposed operation at Middleton is to continue to carry on the infilling of the quarry void. Not all of the material which will be brought to the facility can be recycled. That material which cannot be recycled, and some byproduct, will still require to be deposited in the quarry void.
- 8.8 The application site is located in an area designated as countryside within the MLDP under Policy RD1 - Development in the Countryside. Opportunities for development proposals for landfill (including restoration) within the countryside of Midlothian are not specifically identified by Policy RD1. The development proposal includes the continuation of landfill operations which will seek that application site is progressively restored to countryside. Landfill operations are covered by adopted MLDP policy WAST3 which presumes against new landfill development other than as part of a site restoration project. The principle of development for infilling and restoration of the former quarry is established by the previous grant of planning permission for material extraction, landfilling and restoration of the site, planning permissions 15/00503/DPP and 22/00546/S42. Therefore, the principle of infilling the historic quarry void at this site has already been established.
- 8.9 It is the case that the infilling and final restoration of the former quarry will take longer than originally envisaged. However, it is considered that there will be a greater environmental benefit as the applicant proposes to remove and recycle some of the already deposited materials, thereby extracting the maximum value from material.
- 8.10 While the principle of both parts of the proposal are acceptable it is also noteworthy that there are even greater benefits to having both operations sited together. Both local and national policies require the reduction and reuse of materials. Within the applicant's supporting statement and environmental review it is stated that The NWH Group (NWH) currently operates a materials recycling facility at yards 1 and 2, Mayfield Industrial Estate. The quarry void at Middleton Quarry is currently being infilled with inert waste recycled from the Mayfield site. The proposed recycling facilities at Middleton would remove the requirement of transporting recycled waste to infill the quarry void and the minimise the requirement for rehandling or further transportation off-site. Furthermore, the plant and machinery used for recycling is noted to save approximately 20,000 tonnes of industrial waste going into landfill each year.

- 8.11 While there is clearly support in principle for these uses it is necessary to consider a range of detailed elements and impacts which are related to the proposed development. These are considered below.
Transportation and Road Safety
- 8.12 The A7 is to be the principal route for vehicles bringing materials to site. It is proposed to utilise the existing site access, office, weighbridge and internal haul route. The applicant states that the current landfill operations were assessed and approved by Midlothian Council on the basis a daily average of 66 HGV movements (33 vehicles entering and 33 vehicles leaving). It is important to note that this is a daily average and that on some days the total incoming vehicles could be as high as 60 vehicles.
- 8.13 It is noted within the submitted supporting statement and environmental review that the vehicle movements would continue at a similar level to the existing landfill consent, the only difference being that a significant proportion of vehicles leaving the site would be loaded with recycled aggregates, as opposed to leaving empty although some would potentially be arriving empty. As with current landfill operations, vehicle movements may be subject to peaks and troughs and importation may increase to meet occasional larger contracts.
- 8.14 While some objections to the application note road safety and the increased potential for accidents at the A7/Guildie Howes junction, as well as concerns about increased vehicle movements, neither Transport Scotland nor the Council's Senior Manager Neighbourhood Services (Roads) raised any concerns in terms of road safety as a consequence of the development proposal.
- 8.15 Concerns have been raised from representors about mud and debris being left on public roads from vehicles coming and going from the application site. The applicant has stated that they will provide a longer surfaced access road with an additional wheel and body wash within the application site which will reduce the likelihood of material, such as mud and debris, being deposited on the local road network. To mitigate the potential for mud on the public road it can be made a condition of a grant of planning permission that that the duration of the proposed operations, all empty and loaded HGVs leaving the site will be required to pass through the wheel cleaning system. All loaded vehicles entering or leaving the site will be sheeted to minimise any debris/mud falling onto the road. Further to this, a road sweeper is also available to ensure that the site access is kept clean at all times.
- 8.16 Furthermore, it is noted that with regard to concerns raised over mud on the road, it is an offence for an operator not to address incidences of mud falling or being deposited onto the public road from their vehicles. Under the Roads Scotland Act 1984 the Council; as roads authority, could take enforcement action against any operator to ensure that incidences of mud on the public road is addressed.

- 8.17 At the pre-determination hearing, the applicant confirmed that the repairs and resurfacing of Guildie Howes Road will commence in July 2024.
- 8.18 Also during the pre-determination hearing, representors noted the potential for a footpath to improve pedestrian access at Guildie Howes Road. At Guildie Howes Road there are currently crash barriers to prevent vehicles going off the carriageway and causing damage to themselves and surroundings. NWH have stated that they would be willing to clear out between the barrier and the field boundary and put in hardstanding to form a path. However, they have emphasised that there is limited space, and that NWH does not have ownership of the adjacent land, so there is no potential to widen the path out. In this respect, whilst NWH would be willing to create a pathway, they have stated that it is likely that this would be more of an 'informal' path and might not be able to meet the standard specification that might be required by the Council. While it would be desirable to provide a footpath alongside Guildie Howes road, given the traffic using this section of road, it will be difficult to provide a footpath of an appropriate standard, with sufficient drainage, given the land ownership constraints.

Noise

- 8.19 Given the nature of the development proposal, there have been some concerns raised by objectors regarding the potential increase in noise disturbance affecting neighbouring noise sensitive dwellings, as well as concerns over the impacts on air/dust and water quality.
- 8.20 Consideration has been given to the proposed change and intensification of operations on this site and the potential for noise complaints from the proposed waste recycling equipment, therefore there was a requirement for a noise assessment to be carried out by an noise consultant so as to demonstrate that all activities (existing and proposed) can all be undertaken within the existing site noise limits.
- 8.21 The applicant commissioned a noise impact assessment. The assessment included noise sensitive dwellings in the immediate locality of the development, in particular Guildie Howes Farm, Halkerston Farm, Middleton, Easter Middleton and Wester Middleton. Previous noise measurements and predictive measurements indicate that the existing planning condition can be complied with, i.e. that noise from the proposed operations will not exceed a daytime noise limit of 55dB LAeq,1hr (free field) at noise sensitive locations with the exception of Guildie Howes, and Halkerston Farm Cottages where respective daytime limits of 50dB LAeq and 45 dB LAeq shall not be exceeded. If planning permission is granted, a condition can be attached to secure these standards. Therefore, there will be no significant noise impact on

the surrounding community by these proposed new activities and the development is not contrary to policy ENV18 of the MLDP.

Air/Dust

- 8.22 The Council's Senior Manager Protective Services is particularly concerned about the likelihood of windblown dust from the stockpiles of processed and unprocessed recycling material, which could have the potential to affect the nearest sensitive receptors and also the households in the wider area and environment, encompassing North Middleton and Middleton. An air quality impact assessment should detail the steps to be taken to prevent windblown particulate matter emissions. If planning permission is granted a condition can be attached to secure this requirement and protect nearby sensitive receptors from adverse impacts as a result of dust.

Water Environment

- 8.23 The submitted supporting statement and environmental review concluded that potential impacts (both positive and negative) from hydrological and hydrogeological systems have been identified. Potential residual impacts to the water environment from groundwater contamination and introduction of particulates or suspended sediment to surface water have been assessed as negligible, with appropriate mitigation and control measures regulated by a PPC permit issued by SEPA.
- 8.24 With regards to safeguarding the quality of the private water supply of local resident, a condition should be attached requiring details of measures which will be taken to ensure that the wholesomeness of private water supplies in the vicinity of the proposed works are not affected by the development proposal.

Protected Species

- 8.25 The survey work and findings within the submitted Preliminary Ecological Appraisal report are out of date and require to be updated. Whilst the findings of the report did not flag any concerns in terms of protected species, an updated Preliminary Ecological Assessment Report has been requested from the applicant. The applicant is in the process of preparing this. It is noted that if planning permission is granted that a decision cannot be issued until the revised Ecological Appraisal report has been submitted and reviewed and no concerns are flagged.

Landscape Character

- 8.26 Existing topography and tree cover surrounding the site provides a degree of screening and containment to the development that limits its visual envelope. Within the context of established operations and previously approved proposals for infilling and restoration of the site

(under planning applications 15/00503/DPP and 22/00546/S42) the present proposals for reworking and infilling will not have a significant impact on the local landscape character.

- 8.27 The introduction of the proposed recycling plant, however, will add a significant new feature in to the landscape and it will be visible from a number of locations surrounding the site due to its relatively elevated position.
- 8.28 The proposed 3-metre-high mounding seeks to mitigate the most acute visual impacts in views from the minor road south of the site. Proposals for advance tree/ scrub planting at the west and northwestern site boundaries will also provide a degree of screening/ filtering over time.
- 8.29 However, until vegetation has fully matured, parts of the recycling plant are likely to appear conspicuous from sections of the unclassified road (NCN1) west of the site and the minor road near Halkerston. Overall, within the context of existing and historic operations within the locality these visual effects are not considered significantly adverse or out of place.

Trees and woodland

- 8.30 Within the submitted tree survey, it is noted that information is limited to the existing trees and woodland belts along the south and southeastern site boundaries that have the potential to be affected by siting of the proposed recycling plant. However, the proposed tree survey does not fully reflect the finalised site layout proposals or the presence of existing mounds of material.
- 8.31 Therefore, if planning permission is granted, a condition should be attached requiring an updated Tree Protection Plan and Arboricultural Method Statement to safeguard existing trees within the woodland belt east of the proposed recycling plant and those along the southern site boundary.

Soil Management

- 8.32 The submitted supporting statement and environmental review makes broad provisions for soil storage and handling which should be expanded on in a Soil Sustainability Plan which can be secured by condition – the plan should identify the restored areas of soli, the soil profile (topsoil / subsoil), confirm the soil is stable and it's in a condition to promote sufficient aeration, drainage, fertility and root growth.

Restoration

- 8.33 Proposals for the progressive restoration of the site as detailed in the application submission are broadly aimed at re-instating a more natural

landform and establishing locally appropriate landcover to allow the site to be re-integrated within the surrounding landscape.

- 8.34 Whilst these proposals are generally welcomed and are considered to make a positive contribution to the local landscape in the long term, it is requested that a number of changes/ additions are made to establish a suitably robust framework for the site to be re-integrated within its setting, optimise green network connections and habitat value.
- 8.35 Therefore, if planning permission is granted, a condition should be attached requiring a woodland management plan, detailed landscape plan and amended restoration plan to be submitted for approval.
- 8.36 It is envisaged that recreational access can be undertaken through the use of informal paths. Following physical restoration of any area of land it shall be subject to an aftercare scheme for a period of 5 years.

Financial Arrangements to Secure Site Restoration

- 8.37 Without a bond or other robust financial arrangement from a bank or other financial institution being in place there is the possibility that either a full restoration or a lesser but still satisfactory restoration may not be carried out by the operator. In such a circumstance there is a risk to the Council that the full cost of restoration may not be met without expense to the Council or lengthy legal action to secure the funds. A consequence of this position is a potential safety concern with regard to the site being left un-restored. Therefore, should planning permission be granted for the proposed development it is essential that it be subject to a planning condition requiring details of a bond or other financial provision by a bank or other financial institution to be put in place to cover decommissioning, site restoration and aftercare costs on the expiry of the permission.
- 8.38 Furthermore, the developer shall ensure that the approved bond or other financial provision is maintained through the duration of the permission. A planning condition is the means of reassuring the local community of the operators' commitment and ability to meet their restoration commitments. Subject to this condition the proposed development would comply with Government guidance on infilling, NPF4 and with policy WAST3 of the MLDP. The securing of a restoration bond/financial guarantee by a planning condition is consistent with the approach taken in the past by other Scottish Councils and by Directorate for Planning and Environmental Appeal Reporters. It is not necessary to secure the bond/financial guarantee by a legal planning agreement.

Socio-economic considerations

- 8.39 NWH is an established commercial business within Midlothian who currently employ over 350 people, of which over 115 have a home in

the Midlothian area. There are proposed to be 15 full time employees at the application site and a further 15 drivers involved in the importation and dispatch of materials. While these are largely retained jobs the re-siting of the recycling operations from Mayfield to Middleton will ensure the jobs are retained in the Midlothian economy.

- 8.40 During the pre-determination hearing some comments were made regarding the lack of community benefit from the development which is perceived to have an adverse impact on the local community. While the potential adverse impacts of the proposed development can be mitigated, as highlighted throughout this report, it is necessary to consider whether there is any scope to secure community benefits through this planning application. There is no scope through the policies of the development plan to secure contributions towards a community fund. One major benefit to the local community is a long term one, in which a historic quarry will be restored in a way which will provide for enhanced biodiversity and access.

Monitoring and liaison

- 8.41 In order to ensure that only appropriate materials are used for infilling and to ensure adequate protection of the water environment there is scope via condition and by working with SEPA to monitor the materials being brought into the site.
- 8.42 The local community have highlighted a concern that the communication with the applicant/operator of the site has not been sufficient. Should planning permission be granted a condition can be used to secure an ongoing liaison arrangement between the operator and the community council. A point of contact at the site must be appointed by the operator in order that the community council know who to contact in the case of any issues occurring.

9 RECOMMENDATION

- 9.1 It is recommended that subject to no objection being received from The Coal Authority and the updated Preliminary Ecological Appraisal Report not raising any additional issues planning permission be granted for the following reason:

Whilst consideration is given to the countryside location, the planning history and compliance with the principles of the waste hierarchy outweigh any temporary impacts upon the countryside. The proposed development does not have adverse environmental impacts subject to detailed/technical matters being agreed/secured by condition. The proposed development accords with the Midlothian Local Development Plan and National Planning Framework 4.

- 9.2 Subject to the following conditions:

1. Planning permission for the formation of recycling facility and waste transfer station; continuation of landfill operations and associated works of the site is granted for a limited period of 17 years from the date of this permission.
2. Except as subsequently amended, or as otherwise required by the terms of this permission, the development hereby approved shall be carried out in accordance with the application plans, and the details contained in the accompanying Supporting Statement and Environmental Review, dated 8 November 2023, including the implementation of all the measures contained in that document for the mitigation of the environmental impact of the operations.

Reason for conditions 1 & 2: To make clear the extent and specifications of the development for which planning permission is granted, and to ensure the full implementation of all the identified measures for mitigation.

3. Only inert material, as specified in the table at Schedule 2, Paragraph 4 of the Landfill (Scotland) Regulations 2004 and non-hazardous waste codes 19 12 09 and 19 12 12 as defined by the Landfill (Scotland) Regulations 2004, shall be used for infilling purposes and the material shall arrive at the site in a condition suitable for purpose.

Reason: To ensure that only appropriate materials are used for infilling and to ensure adequate protection of the water environment.

4. At the end of the month during which infilling commences and at the end of each month thereafter until the site is fully restored, the developer shall send to the planning authority a written record of where each load of material being used to infill the site has come from, the type of material and the tonnage.

Reason: To ensure that only appropriate materials are used for infilling and to ensure adequate protection of the water environment and so that the planning authority can monitor progress with the infilling.

5. Notwithstanding the plans and supporting documents hereby approved, site operations, including vehicle movements shall be restricted to between the following hours 08:00 to 19:00 hours Monday to Friday and 08:00 to 12:00 Saturday unless otherwise agreed in writing by the planning authority.

Reason: In the interests of safeguarding the amenity of local residents.

6. Notwithstanding the plans hereby approved, an updated Tree Protection Plan and Arboricultural Method Statement so as to include the existing trees and woodland belt to the east of the recycling plant and along the southern boundary, shall be submitted to the planning Authority for prior written approval. Thereafter the development shall operate in compliance with the approved Tree Protection Plan and Arboricultural Method Statement unless otherwise agreed in writing by the planning authority.

Reason: *To safeguard existing trees within the woodland belt east of the proposed recycling plant and those along the southern site boundary.*

7. Notwithstanding the plans hereby approved, a Soil Sustainability Plan, shall be submitted to the planning Authority for prior written approval. Thereafter the development shall operate in compliance with the approved Soil Sustainability Plan unless otherwise agreed in writing by the planning authority.

Reason: *To ensure that the soil profile (top soil / subsoil) of all restored areas is stable and in a condition to promote sufficient aeration, drainage, fertility and root growth*

8. Within one month from the date of this planning permission, the applicants or their successors shall submit for the approval of the planning authority a detailed woodland management plan, revised restoration plan and detailed landscape plan of the whole site, showing the final contours to be achieved in restoration, and the location of any hedges, fences, gates, walls and access points on the restored site, together with a written specification where such details are not shown on the plan; the plan shall also include proposals for the removal or other treatment of areas of hardstanding, areas occupied by plant or buildings, and the full length of the haul road, together with detailed landscaping proposals for the whole site, including the haul road, indicating the numbers, sizes, species, positions and planting densities of all trees and shrubs to be planted. Thereafter the development shall operate in compliance with the approved Woodland Management Plan and Restoration Plan unless otherwise agreed in writing by the planning authority.
9. The approved landscaping approved by condition 8 of this permission, shall be maintained to the satisfaction of the planning authority for a period of five years from the time of restoration. Maintenance shall include the replacement of any trees, shrubs or hedgerow plants which die, are removed, become seriously diseased or are severely damaged within that period, by others of a similar size and species to those originally required to be planted.

Reason for conditions 8 and 9: *To ensure that all restored land is properly managed for a sufficient period to ensure its effective return to permanent agricultural/forestry use. So as to establish a suitably robust framework for the site to be re-integrated within its setting, optimise green network connections and habitat value.*

10. Prior to the start of the development, the developer shall provide the planning authority with details of a bond or other financial provision from a bank or other financial institution to be put in place to cover decommissioning, site restoration and aftercare costs on the expiry of the permission. No works shall commence on site until the developer has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory. The developer shall ensure that the approved bond or other financial provision is maintained through the duration of the permission.

Reason: *To ensure that there are sufficient funds available throughout the life of the development to carry out the full restoration of the site.*

11. Any identified damage to the highway during infilling and restoration works shall be repaired within 3 months of the operator being notified of the required works.

Reason: *Various sections of the road carriageway / verge have suffered damage over the years and they require to be repaired prior to the intensification of the use of the road in the interests of road and pedestrian safety.*

12. A dust management plan shall be submitted and agreed in writing by the planning authority. The dust management plan should detail the steps which will be taken to prevent windblown particulate matter emissions. Thereafter the development shall operate in compliance with the approved Dust Management Plan unless otherwise agreed in writing by the planning authority.

13. A continuous programme of dust/particulate matter monitoring shall be undertaken by the operator at a position on the site boundary agreed in writing by the planning authority and environmental health. This shall be linked up to a wi-fi link in the site office.

Reason for condition 12 and 13: *To mitigate the potential impact of the development on air quality in the interest of safeguarding the amenity of neighbouring properties and the amenity of the area.*

14. A daytime limit of 55dB L_{Aeq, 1h} (free field) generally shall be met at noise sensitive properties; with the exception of Halkerston Farm Cottages which is identified as being in a quiet rural area and shall

be subject to a daytime limit of 45 dB $L_{Aeq, 1h}$ (free field) ; Guildie Howes shall be subject to a daytime limit of 50 dB L_{Aeq} .

Reason: *To mitigate the potential noise impact of the development in the interest of safeguarding the amenity of neighbouring noise sensitive properties.*

15. No mud, soil or debris shall be deposited on the public highway by vehicles entering or leaving the site. Any mud, soil or debris deposited on the public highway shall be removed and the highway cleaned. The applicant shall retain an operational road sweeper on site whilst recycling, infilling operations and restoration works are taking place to ensure the highway is cleaned within one hour of the operator being notified by the local authority, the Police or any other Government Agency or Public Body.

16. All loaded vehicles entering or leaving the site shall be covered by a sheet.

Reason for conditions 15 and 16: *In the interests of highway safety.*

17. Within one month from the date of this consent, details of measures which will be taken to ensure that the wholesomeness of private water supplies in the vicinity of the proposed works are not affected by the proposed activities shall be submitted to the planning authority for written approval.

Reason: *In the interests of safeguarding the quality of private water supply of local residents.*

18. Within one month of the date of this decision being issued details of a scheme of liaison, identifying how the site operator shall liaise with the local community council, shall be submitted and approved in writing by the planning authority. The details in terms of this condition shall include contact details of the site manager being provided to the community council and details of the community council contact being provided to the site manager. These details shall be updated on a six-monthly basis. Thereafter the development shall operate in compliance with the approved scheme of liaison unless otherwise agreed in writing by the planning authority.

Reason: *To ensure that matters of concern can be raised by either party in order that the proposed development can operate in a way which is compatible with the surrounding community, in the interests of that community's amenity.*

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 24 May 2024

Application No: 23/00595/DPP

Applicant: The NWH Group

Agent: William Booth, Dalgleish Associates Ltd.

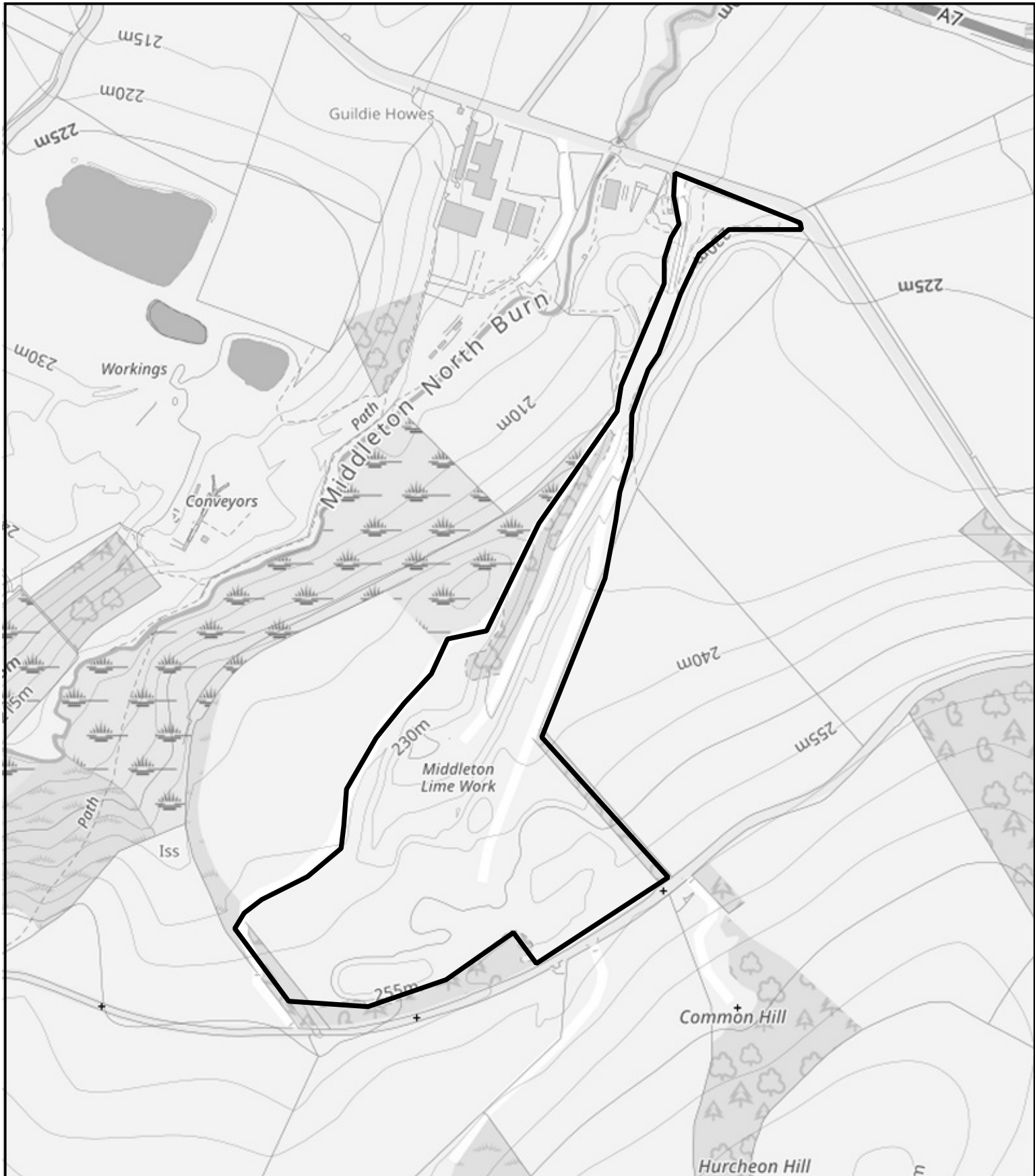
Validation Date: 08 November 2023

Contact Person: Whitney Lindsay

Email: Whitney.Lindsay@midlothian.gov.uk

Background Papers: Planning Application 15/00503/DPP and
22/00546/S42

Attached Plans: Location Plan, Site Plan, Plant Layout, Cross
Section and Restoration Plan



**Planning Service
Place Directorate**

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

Formation of recycling facility and waste transfer station; continuation of landfill operations and associated works

Middleton Lower Quarry Gorebridge

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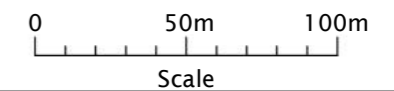
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GENERAL SITE LAYOUT AND PHASING PLAN

Legend

-  Application Boundary
-  Quarry Void Infill Area
-  Advanced Trees and Scrub Planting



Client: NWH GROUP

Project: MIDDLETON QUARRY

Title: GENERAL SITE LAYOUT AND PHASING PLAN

Figure: 3 Drawn: EM

Scale: 1:2,500 Checked: WB

Date: 11.08.23 Sheet Size: A3

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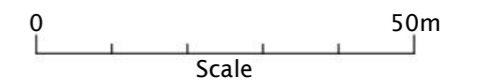
ENVIRONMENTAL, MINERAL AND
PLANNING CONSULTANTS
CATHEDRAL SQUARE
DUNBLANE FK15 0AH
Tel: 01786 822339



RECYCLING PLANT LAYOUT PLAN

Legend

Application Boundary



Client: NWH GROUP

Project: MIDDLETON QUARRY

Title: RECYCLING PLANT LAYOUT PLAN

Figure: 4 Drawn: EM

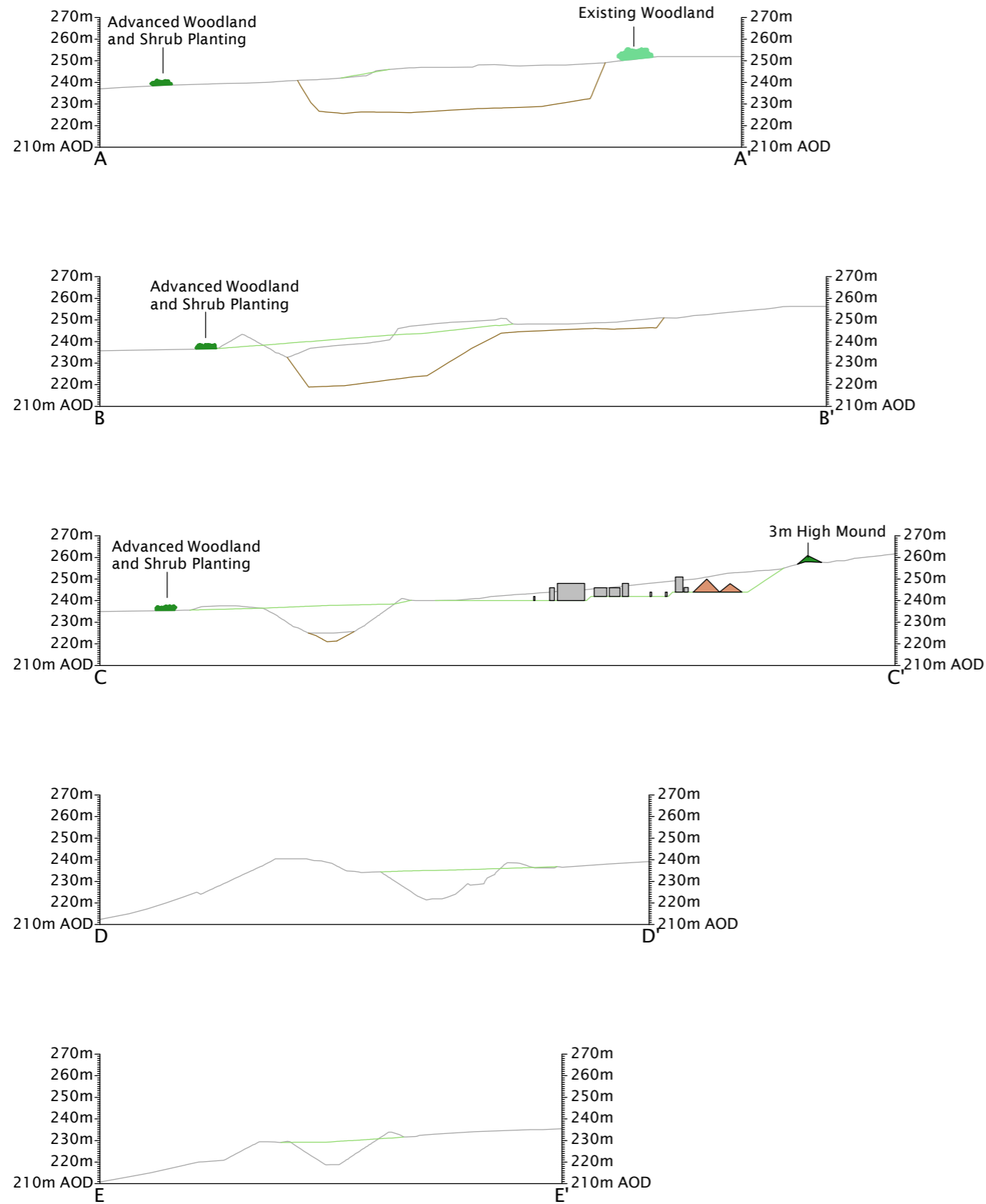
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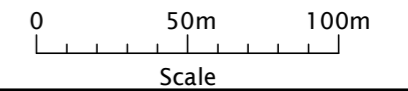


CROSS SECTIONS

Legend

-  Existing Topography
-  Development Topography
-  Restoration Topography
-  Advanced Trees and Shrub Planting

Cross Section Locations are shown on Figures 2, 3.4 and 5



Client: NWH GROUP

Project: MIDDLETON QUARRY

Title: CROSS SECTIONS







Figure: 3.6 Drawn: EM
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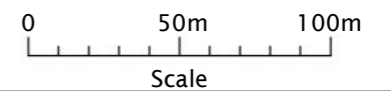
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RESTORATION PLAN

Legend

-  Application Boundary
-  Trees and Shrub Planting
-  Grassland
-  Informal Access Route
-  Ephemeral Wetland
-  Cross Section Locations



Client: NWH GROUP

Project: MIDDLETON QUARRY

Title: RESTORATION PLAN

Figure: 5 Drawn: EM

Scale: 1:2,500 Checked: WB

Date: 04.08.23 Sheet Size: A3

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