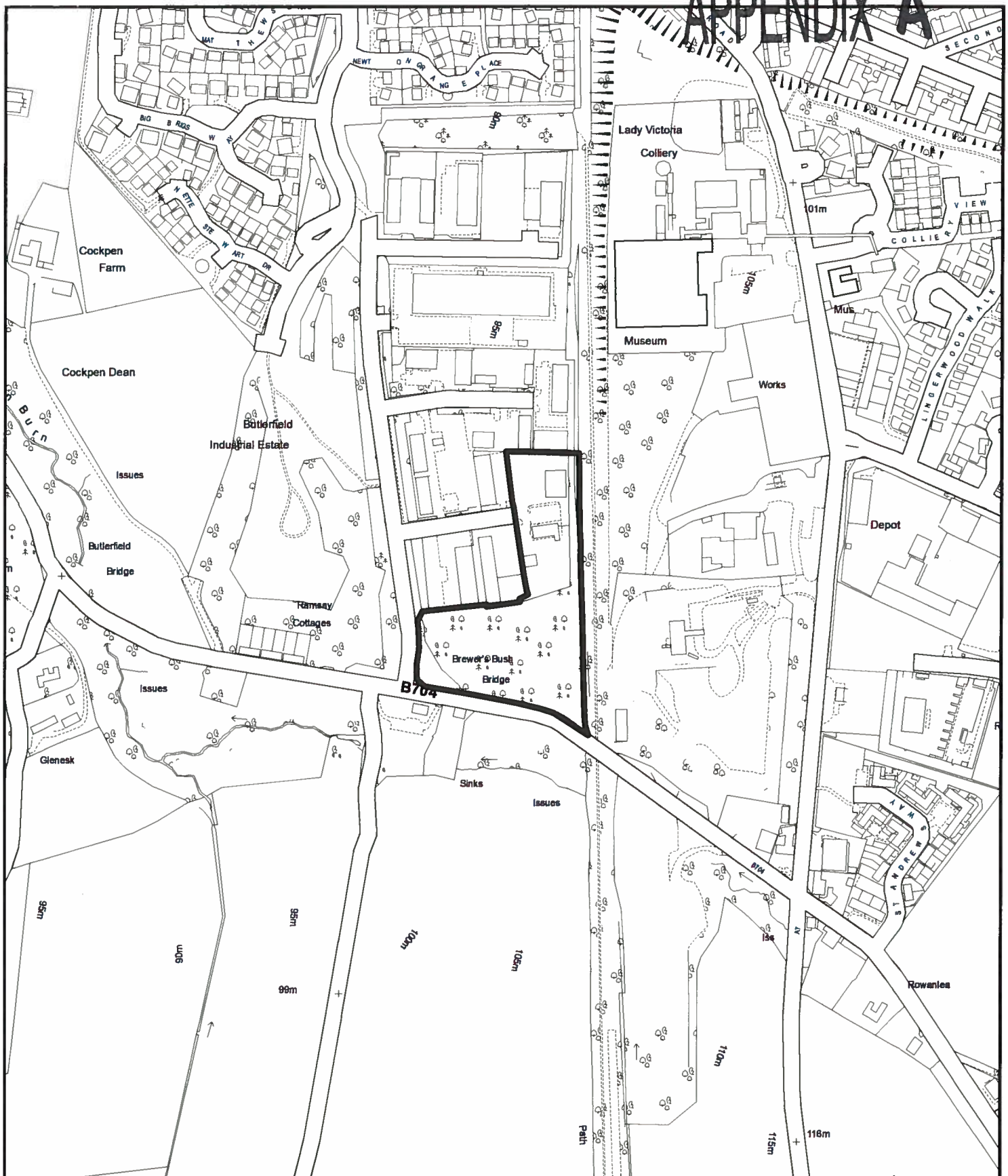


# APPENDIX A



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

**Re-grading of land and formation of yard (part retrospective)  
at Land South Of Units 2 To 4A Butterfield Industrial Estate  
Bonnyrigg**

**File No. 13/00901/DPP**

**Scale: 1:5,000**

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# APPENDIX B

## NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

**IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.**

**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>**

1. Applicant's Details		2. Agent's Details (if any)	
Title	Mr	Ref No.	
Forename	Derek	Forename	
Surname	Hogg	Surname	
Company Name	Crummock (Scotland) Limited	Company Name	
Building No./Name	4A	Building No./Name	
Address Line 1	Butlerfield Estate	Address Line 1	
Address Line 2	Cockpen	Address Line 2	
Town/City	Bonnyrigg	Town/City	
Postcode	EH19 3JQ	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax	N/A	Fax	
Email		Email	
<b>3. Application Details</b>			
Planning authority		Midlothian Council	
Planning authority's application reference number		13/00901/DDP	
Site address			
Crummock (Scotland) Limited 4A Butlerfield Estate Cockpen Bonnyrigg EH19 3JQ		<div>CORPORATE RESOURCES FILE: 13/00901/DDP RECEIVED - 3 APR 2014</div>	
Description of proposed development			
regrading of land and formation of storage yard			

Date of application

15/01/2014

Date of decision (if any)

05/03/2014

**Note.** This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

#### 4. Nature of Application

Application for planning permission (including householder application) ☒

Application for planning permission in principle ☐

Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition) ☐

Application for approval of matters specified in conditions ☐

#### 5. Reasons for seeking review

Refusal of application by appointed officer ☒

Failure by appointed officer to determine the application within the period allowed for determination of the application ☐

Conditions imposed on consent by appointed officer ☐

#### 6. 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.

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

Further written submissions ☐

One or more hearing sessions ☐

Site inspection ☒

Assessment of review documents only, with no further procedure ☐

If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

#### 7. Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

Can the site be viewed entirely from public land? ☐

Is it possible for the site to be accessed safely, and without barriers to entry? ☐

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

The site is accessed from our working premises where plant and vehicles are moving. We would be delighted to arrange a site visit for the Local Review Body but would wish accompany them and provide appropriate PPE to ensure safety whilst on site.

## 8. Statement

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. Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please see enclosed submission: Document 1- Response to Midlothian Council Planning Refusal

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes ☐ No ☒

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

## 9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

Document 1 - Response to Midlothian Council Planning Refusal  
Drawing 131011 - Existing Layout and Levels  
Drawing 131012 - Proposed Layout and Levels  
Drawing 131013 - Sections

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

## 10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form ☒

Statement of your reasons for requesting a review ☒

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review. ☒

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 from that earlier consent.

## DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature:



Name: Derek Hogg

Date: 28/03/2014

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.



**Document 1: Response to Midlothian Council Planning Refusal**

**REG. No. 13/00901/DPP**

**Regrading of land and formation of storage yard at land south of Units 2 to 4A, Butlerfield Industrial Estate, Bonnyrigg.**

We wish to request a review of Midlothian Council's refusal of the above Planning Application. We are disappointed that a refusal was issued without any engagement from the planners that could have led to amendments to our application to address any concerns. The points numbered below are dealt with in the same order as the Midlothian Council's letter of 05/03/2014.

1. The re-grading of the land will not result in total loss of soft landscaping which provides screening. A perimeter band of at least 2 metres from the edge of the boundary can be left untouched and if required by the Council, supplemented with additional suitable planting of native species. The road into Butlerfield Estate has a further band of screening of approximately 2 metres wide which is not within Crummock's property boundary and consists mainly of beech and other mature trees. This ensures that views to the operations within the Industrial Estate and Lady Victoria Business Park will almost remain as effectively screened as they are presently.



*Figure 1: Entrance to Butlerfield Estate*

CORPORATE RESOURCES	
FILE:	
RECEIVED	- 3 APR 2014



2. There will be no increase in elevation of the site. It will in fact be generally lower than at present as the regrading will produce materials to form the landscaping bunds indicated (as illustrated on Drawing No 131013). The height of stored materials in the yard will not be higher than the level of the bund therefore there will be no visual imposition or intrusion to the properties mentioned, namely: Ramsay Cottages, Brewers Bush and Redheugh. We note that the Council has not received any objections to the proposed development from any of these properties.

Additionally we have visited the sites mentioned above and would comment as follows;

**Brewers Bush** - the current vegetation which as stated previously will remain undisturbed provides effective screening and will continue to do so. Should there be any requirement by the Council that we should supplement it we will of course be happy to so do.



*Figure 2: Screening opposite Brewers Bush*



**Ramsay Cottages** - There is no view whatsoever of Crummock's premises or the Lady Victoria Business Centre from any one of the properties in this row of single storey dwellings. The cottages are approximately 100 metres from the entrance to Butlerfield Estate and there is screening on both sides of the road into the estate which is not part of Crummock's property and would of course remain undisturbed.



*Figure 3: Outside Ramsay Cottages*



## **Redheugh – future housing development**

We were unable to establish any potential impacts to the visual aspects enjoyed at this location. Crummock's premises does not appear to be visible from the site and the Lady Victoria Business Centre is only partially visible as shown in the photograph. These aspects would not be changed in any way by the proposed storage yard development.



*Figure View from Redheugh development site*

## **Slope Gradient**

Should additional planting be required by Midlothian Council on the banking around the site we would be happy to do so and can reduce the gradient of the banking to enable this to be carried out. We would take advice from the Council or other experts as to the maximum gradient which would be suitable for planting further screening if required.

## **3. SUDS drainage**

SEPA have stated that there is no requirement for formal Sustainable Urban Drainage Systems provided there were no new developed surfaces. We can confirm there are no such surfaces proposed for the site.

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

**Planning Application Reference:** 13/00901/DPP

**Site Address:** 4A Butlerfield Estate, Bonnyrigg.

**Site Description:** The application site comprises an approximately 495 square metre area of land immediately to the south and east of Butlerfield Industrial Estate.

A combination of existing office buildings and yard occupied by the applicant Crummock (Scotland) Limited, and other industrial units within Butlerfield Industrial Estate, bounds the site to the north. An embankment of the Waverley (Borders) rail line bounds the site to the east, beyond which is the coated roadstone plant on the southern part of the Lady Victoria Business Centre. Cockpen Road (B704) bounds the site to the south, beyond which is a combination of the house and associated garden ground of the cottages at Brewers Bush and No.2 Brewers Bush and the Redheugh/Prestonholm development site (site H8), which is allocated for 700 houses in the adopted Midlothian Local Plan 2008. A combination of existing industrial units within Butlerfield Industrial Estate and the industrial estate access road bounds the site to the west. Nearby, to the west, are the dwellings at Nos. 1-6 Ramsay Cottages.

**Proposed Development:**

Planning permission is sought for:

- (i) the re-contouring of the southern part of the site including levelling and the erection of banking along the south, west and part of the north boundary of the site; and,
- (ii) the change of use of the site for the storage of construction, civil engineering and ground works materials.

The application is part retrospective as part of the site has already been re-contoured and the eastern part of the site is presently being used for storage of construction, civil engineering and ground works materials.

**Proposed Development Details:**

The applicant has submitted a statement in support of their application. It states that the development will increase the storage area currently available to Crummock, enabling bulk buying of materials for distribution to various construction sites providing storage for traffic and pedestrian management equipment such as cones and temporary fencing etc.

The site would employ one full time employee.

It is anticipated that HGV movements into the site would be less than 1 per hour on average and probably about the same number of vans or pick-ups collecting items.

No bonded hard surfaces are to be provided on the site. The surface would be dressed with hard core material. Drainage would be into the ground.

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

The site is the subject of an on-going planning enforcement investigation of the unauthorised re-contouring of and the change of use of the land to storage.

### **Consultations:**

The **Scottish Environment Protection Agency** has been consulted on the application and did not reply.

The **Council's Environmental Health Section** advises that if planning permission is granted, in the interests of safeguarding the amenity of the existing cottages at Brewers Bush and No.2 Brewers Bush and the future houses on the nearby Redheugh/Prestonholm development site (site H8) that: (i) the proposed bund is formed as this will provide a degree of protection in relation to loss of amenity by way of noise; and, (ii) No movement of materials or operation of plant and machinery shall take place on the development site outwith the hours 8 am to 6 pm Monday to Saturday only.

**Representations:** No representations were received.

### **Relevant Planning Policies:**

The relevant policies of the **2008 Midlothian Local Plan** are;

The northern part of the application site; which is within the confines of Butlerfield Industrial Estate, is identified in the Local Plan as established economic land supply ref. e19, which land is suitable for business and general industrial uses. Local Plan **Policy COMD1** applies to this part of the site. Policy COMD1 states that the Council will continue to seek the early implementation of all committed development sites and related infrastructure including sites in the established economic land supply.

Policy **RP5 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, individual trees (including areas covered by a Tree Preservation Order) and hedges which have particular amenity, nature conservation, recreation, landscape character, shelter, or other importance.

Where an exception to this policy is agreed, any tree lost will be replaced with equivalent.

Policy **RP7 Landscape Character** states that development will not be permitted where it may adversely affect the quality of the local landscape. Where development



is acceptable it shall respect the local landscape character and contribute towards its maintenance and enhancement.

The southern part of the site; which is not within the confines of Butlerfield Industrial Estate, is covered by Policy **RP20 Development within the Built-up Area** which states that development will not be permitted within the built-up area where it is likely to detract materially from the existing character or amenity of the area.

**Policy DP3 (Protection of the Water Environment)** states that all applications that require surface water to be drained are required to demonstrate that: (a) surface water run-off will be treated to a standard appropriate to the receiving water; and, (b) surface water run-off peak flows will be attenuated to levels appropriate to the receiving watercourse or drainage system (generally no more than in the state before development).

### **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.

### Principle

The site is located within the built up area in the local plan. Policy RP20 presumes against development that would detract from the character and amenity of the area. It does not give more weight of any one use over another use.

However, the site is out with the allocated economic land at Butlerfield. It consists of what appears to be historically colliery spoil that was mounded up and planted with woodland planting which creates a screen between the Butlerfield Industrial Estate and the countryside beyond to the south.

### Landscape

Almost all of the eastern half of the site has been cleared of vegetation and the ground levelled out. This part of the site is now being used as a storage yard. The new slope down to the railway is too steep to accommodate any additional tree planting. The eastern part of the cleared land is taken up by a large mound of salt stored under tarpaulin.

Due to the local topography there are extensive views in to the site and out from the site, in particular to the west through to the south and the south-east.

The mounding and woodland that existed on the site, and which has partly been cleared to facilitate the development, ensured that the site was well contained. Given the prominence of the site, and its original intended use as landscape screening for Butlerfield Industrial Estate, makes it important to retain the landscape screen in order to mitigate the landscape visual impact of the industrial operations. The clearance of the woodland planting from the eastern part of the site has exposed the neighbouring coated roadstone plant to views in from Bonnyrigg, making it stand out visually. The

further proposed works to accommodate the level changes would lead to the removal of the vast majority, if not all, of the remainder of the well-established young to semi-mature woodland on the site. There is limited scope to accommodate replacement planting. The proposed new banking along boundaries of the site are, in parts, so steep that it is unlikely that any trees would be successfully established on these slopes. This is particularly the case due to the very poor soil. Consequently, the works would leave the Butlerfield Industrial Estate, the coated roadstone plant on the southern part of the Lady Victoria Business Centre and the remainder of the Lady Victoria Business Centre exposed to views in and out, which would be significantly harmful to the character and visual amenity of the area. Therefore the development is contrary to adopted Midlothian Local Plan Policies RP5 (Woodland, Trees and Hedges), RP7 (Landscape Character) and RP20 (Development Within the Built Up Area).

The site sits elevated over the neighbouring cottages and the Redheugh development site (immediately across the B704). Having a storage site so close to residential development without appropriate screen planting to mitigate for the landscape visual impact of the development would especially, due to the elevated nature of the site, be detrimental not only to the visual amenity of the future residences on that site but also on wider visual amenity. Therefore, the development is contrary to adopted Midlothian Local Plan Policy RP20.

It is furthermore a concern that part of the site is being used for salt storage with what appears to be no containment of any runoff leading to potential salt contamination of the ground which again will potentially kill off the existing vegetation.

### Transportation

The proposed development is acceptable in transportation terms.

### Drainage

The absence of sustainable urban drainage (SUDS) for the site could result in contamination of the ground and water run-off; including contaminated water run-off and flooding of neighbouring land and properties, harmful to the water environment, contrary to adopted Midlothian Local Plan Policy DP3.

### Environmental Health

Owing to the close juxtaposition of the site to the existing neighbouring cottages and the future housing site on the nearby Redheugh/Prestonholm site (site H8) there is concern about possible noise nuisance and disturbance to these existing and proposed residences as a result of the storage use, particularly if the operations were to operate late at night and early morning. If planning permission were granted it should therefore be subject to the following controls: (i) the creation of the proposed site boundary bunds within a specified timescale, which will provide a degree of protection in relation to loss of amenity by way of noise and visual impact; and, (ii) no movement of materials or operation of plant and machinery shall take place on the development site outwith the hours 8 am to 6 pm Monday to Saturday.

**Recommendation:** Refuse planning permission for the following reasons.

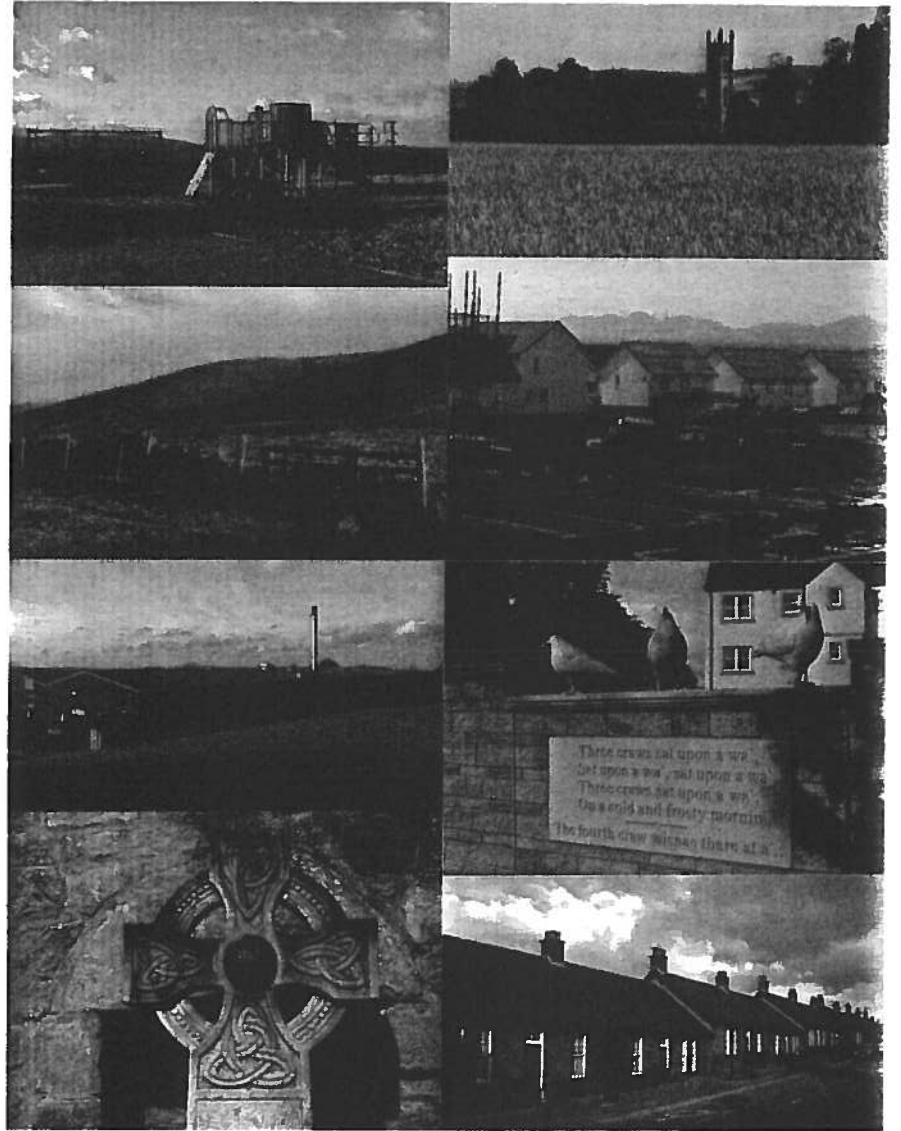
1. The re-grading of the land would result in the loss of soft landscaping that provides screening of the industrial operations on Butlerfield Industrial Estate. Consequently, the works would leave the Butlerfield Industrial Estate, the neighbouring Lady Victoria Business Centre and the coated roadstone plant on it exposed to views in and out, harmful to the landscape character and visual amenity of the area and thereby contrary to adopted Midlothian Local Plan Policies RP5 (Woodland, Trees and Hedges) and RP7 (Landscape Character).
2. Owing to the levels of the site and the storage use; which is/would be elevated relative to the neighbouring cottages at Brewers Bush and Ramsay Cottages and the nearby future residences at Redheugh, would have an unduly imposing and intrusive impact on these existing and future residences, harmful to their residential amenity. The detrimental impact would be exacerbated by the fact that there would not be any scope for adequate screen planting on the site to mitigate the harmful visual impact of the development as the proposed banking along boundaries of the site would be so steep that it is unlikely that any trees would successfully be established on them. Consequently, the proposed development would detract materially from the character and amenity of the area, contrary to adopted Midlothian Local Plan Policy RP20.
3. The absence of sustainable urban drainage (SUDS) could result in both surface water contamination of the ground with the site and water run-off; including contaminated water run-off and flooding of neighbouring land and properties, harmful to the water environment, contrary to adopted Midlothian Local Plan Policy DP3.



# Midlothian

APPENDIX **D**

## Midlothian Local Plan



Midlothian



## Policy Title

**RP5 WOODLAND, TREES AND HEDGES**

**2.1.24 National Planning Policy** Since 1954, planning authorities have had statutory responsibility for considering the protection of trees in the course of granting planning permission. More recent legislation requires that development plans include policies for the conservation of the natural beauty and amenity of the land. In addition, NPPG 14 *The Natural Heritage* requires that policies be included in local plans to ensure that new development takes full account of the potential impact on the local environment. This means that greater consideration must be given to landscape issues, including trees as part of the landscape setting, when assessing planning applications. The Scottish Government's Forestry Strategy commits to a policy of better protection for ancient and semi-natural woodland.

**2.1.25 Structure Plan Policy** One of the approved Structure Plan objectives is to protect and enhance the important settings of settlements and areas of urban green space.

**2.1.26 Local Plan Policy** Trees and hedges make an important contribution to the character and quality of Midlothian's towns, villages and countryside. Particularly notable is the woodland in the main river valleys. It is important that this valuable natural resource is not damaged by development and that developers are encouraged to protect

not only woodland but also hedges and individual smaller groups of trees, and provide appropriate management for the longer term.

**2.1.27** Long-term management will be encouraged by ensuring that any application decision takes protection and management into consideration and that there is appropriate compensation for any losses which are sustained. The Greening of Midlothian Strategy provides detailed baseline data as to the condition and significance of trees and forests throughout North Midlothian. When any planning application is made which could affect woodland, trees or hedges, the applicant must include a full appraisal in the form of a tree survey to enable proper consideration of the proposal. Proposals for development shall be accompanied by a scheme to enhance the number of trees and hedges planted on the site or, alternatively, in circumstances where this can be shown not to be warranted, in the vicinity of the site.

**2.1.28** Midlothian benefits from significant tracts of ancient and semi-natural woodland along the river valleys and these are particularly worthy of protection. Specific legislation protects trees in Conservation Areas and trees covered by Tree Preservation Orders. Current Tree Preservation Orders in Midlothian are listed in Appendix 4 (as of October 2008). New Tree Preservation Orders may also be considered in certain circumstances as a method of protecting trees at risk.

**RP5 WOODLAND, TREES AND HEDGES**

Development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees, individual trees (including areas covered by a Tree Preservation Order, areas defined as ancient and semi-natural woodland, or areas forming part of any designated landscape) and hedges which have particular amenity, nature conservation, biodiversity, recreation, landscape character, shelter or other importance.

Where an exception to this policy is agreed, any trees lost will be replaced with equivalent.

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**RP7 LANDSCAPE CHARACTER**

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Development will not be permitted where it may adversely affect the quality of the local landscape. Where development is acceptable, it will respect the local landscape character and contribute towards its maintenance and enhancement.

New developments will incorporate proposals to:

- A.** maintain the local diversity and distinctiveness of landscape character including natural and built heritage features of landscape value such as woodland, hedges, ponds, stone walls and historical sites; and
- B.** enhance landscape characteristics where they have been weakened and need improvement and create new landscapes where there are few existing features.



## 2.2 The Built Heritage

Policy Title

### RP20 DEVELOPMENT WITHIN THE BUILT-UP AREA

**2.2.1 National Planning Policy** National policy as set out in SPP 1 *The Planning System* states that one of the three general objectives of development plans and development control is “to maintain and enhance the quality of the natural heritage and built environment”. In addition, the importance of good design is highlighted as a priority for the planning system, given that “mistakes cannot be easily or cheaply rectified”.

**2.2.2** SPP 3 *Planning for Housing* (now replaced by SPP 3 *Planning for Homes* – see para. 3.2.6) encourages the full and effective use of land within existing built areas, giving priority to reusing derelict and vacant land. However, it also requires that “infill development respects the scale, form and density of its surroundings and enhances rather than detracts from the character and amenity of existing residential areas”. It indicates that this should be an important consideration for planning authorities when preparing development plans and in determining applications, and for developers when preparing proposals.

**2.2.3 Structure Plan Policy** The ELSP 2015 recognises the importance of protecting and

enhancing the amenity of all urban areas to safeguard and improve the quality of life of residents of the Lothians. Policy ENV1G requires local plans, in encouraging the development of infill sites, the redevelopment of brownfield land and the conversion of existing buildings, to promote a high quality of design in all new development.

**2.2.4 Local Plan Policy** Midlothian is not characterised by large areas of brownfield land ripe for redevelopment. It follows therefore that the main areas of new development will be on greenfield sites on the edge of the built-up areas. There will, however, be opportunities for new development within the existing urban areas, including conversion, intensification, infill or redevelopment.

**2.2.5** Policy RP20 applies to the existing built-up area of all towns and villages, and the areas of new housing allocations. The Local Plan Proposals Map defines the urban boundaries of the main settlements and also identifies village envelopes. The purpose of the policy is to ensure that new development does not damage or blight land uses which are already established in the neighbourhood, particularly where residential amenity will be affected. Sections 3.7 and 4 contain guidance with regards to wind turbines (policies NRG1 and NRG2), energy for buildings (policy NRG3), the form and layout of development on greenfield sites (policy DP2), extensions to existing housing (policy DP6) and control over advertising (policy DP8), which may be relevant to proposals for development within the built-up area.

### RP20 DEVELOPMENT WITHIN THE BUILT-UP AREA

Development will not be permitted within existing and future built-up areas, and in particular within residential areas, where it is likely to detract materially from the existing character or amenity of the area.

### 3.1 Committed Development

Policy Title

#### COMD1 COMMITTED DEVELOPMENT

**3.1.1 Background.** In 2003, the now superseded Midlothian and Shawfair Local Plans were adopted. These plans allocated land for about 9,000 houses and over 70 hectares of economic development land, and included the creation of a new community at Shawfair as part of the South-East Wedge strategic release of Green Belt in accordance with the Lothian Structure Plan 1994. The policies and proposals contained in the 2003 Local Plans were the subject of consultation and major public local inquiries prior to adoption. As well as allocating land to meet the strategic requirements of the Lothian Structure Plan 1994, they set out a framework for the delivery of affordable housing, infrastructure, facilities and a wide range of other key developments.

**3.1.2** Para. 1.3.6 explains that delays have occurred in the commencement of development on a number of these sites. This has been linked to factors such as the need to resolve complex infrastructure constraints and to finalising legal agreements. However, good progress is being made, and the housing audit process confirms that house completion rates have risen.

**3.1.3** These committed development proposals remain important to Midlothian's future. Given that the policies and proposals of these two Local Plans were the subject of detailed scrutiny, and they continue to be afforded support by the ELSP 2015, these committed proposals are rolled forward in this replacement Local Plan. The purpose of policy COMD1 and Appendices 1 and 2, as explained in para 1.3.13, is to confirm that all committed development proposals, the developer contributions required in association with them, and the existing policies and proposals which apply specifically to the Shawfair new community and the expansion of Danderhall, continue as commitments in the context of this Local Plan.

#### COMD1 COMMITTED DEVELOPMENT

Midlothian Council will continue to seek the early implementation of all committed development sites, and related infrastructure, facilities and affordable housing requirements, as listed in Appendix 1 and identified on the Local Plan Proposals Map\*. These include:

- ❖ sites in the established housing land supply, including the provision of affordable housing as specified for inclusion within particular sites in the base land supply (Appendix 1A.1-1A.3)\*\*;
- ❖ sites in the established economic land supply (Appendix 1B) (refer also to policy ECON4);
- ❖ the Shawfair new community, and expansion of Danderhall, as detailed in the Shawfair Masterplan and Design Guide, and including Shawfair town centre and the redevelopment of the former Monktonhall Colliery site (refer to the Local Plan Proposals Map for the defined area and Appendix 2 for relevant detailed policies and proposals);
- ❖ the site for the Midlothian Community Hospital at Bonnyrigg/Eskbank;
- ❖ sites allocated for new primary schools as listed in Appendix 1C;
- ❖ consented sites for the provision of park and ride facilities at Sheriffhall (extension);
- ❖ the extension of the Drummond Moor landfill site in connection with the provision of a Waste Management Complex (provided it can be shown to contribute to the Best Practicable Environmental Option for Municipal Waste);
- ❖ essential infrastructure required to enable development sites included in the established housing and economic land supply to be implemented (Appendix 1D); and
- ❖ leisure and community facilities to meet deficiencies exacerbated by the additional housing arising from sites included in the established housing land supply (Appendix 1E).

\* Shown on Local Plan Proposals Map.

\*\* For housing sites listed in Appendix 1A.2, there is a requirement for the provision of 5 -10% affordable housing units, an estimate of which is included in the site capacities identified. For sites listed in Appendix 1A.3, there is a requirement for the provision of 20% affordable housing units, included in the site capacities identified. Levels of affordable housing provision will be agreed through negotiation between the Council and the developer/ landowner. These may be adjusted where the Council is satisfied that this has been fully justified.

## 4.3 Protection of the Water Environment

### DP3 PROTECTION OF THE WATER ENVIRONMENT

The following detailed policy supplements the terms of policy RP8:

#### 1 Flooding

Development proposals will be assessed in accordance with the risk framework set out in the table below. Where proposals cannot meet standards of protection indicated in the framework, development will not be permitted.

Type of development	Standard of protection
Sheltered housing, homes for elderly or other vulnerable groups	1000 year
Development containing hazardous materials	1000 year
Essential civil infrastructure	1000 year
All other residential property for permanent occupation*	200 year
Caravans for seasonal occupancy	200 year
Other types of development	No standard specified. Risk will be considered against the particular characteristics of the proposal.

\*Residential development including bungalows, ground floor flats and below ground level accommodation is considered to constitute a heightened risk. Depending on the nature of the development and local circumstances, developers may be required to place these elements of residential development in parts of the site with a lesser flood risk than is acceptable for general residential development.

Whether or not the flood risk is acceptable may require to be determined by a flood risk assessment (FRA). The requirement for an FRA will be decided in view of the nature of the proposal and its location, after consultation with SEPA. FRAs must comply with

SEPA guidance set out in their published policies (specifically Annex B of Policy 41), their supplementary flood risk assessment guidance\* and in any successor or additional documents relating to FRA, introduced by SEPA over the lifetime of the Local Plan.

Early discussions with SEPA have identified a need for a flood risk assessment for a number of sites allocated for development in this Local Plan. Reference is made elsewhere in the Plan where this is the case.

\*The SEPA supplementary guidance *Reporting Requirements for Flood Risk Assessments* is also relevant. This guidance reflects the methodology given in the *Flood Risk Estimation Handbook* and updates (but does not replace) the guidance in Annex B of Policy 41.

#### 2 Treatment of Watercourses in New Development

Where development is proposed adjoining or straddling a watercourse:

- a wayleave adjoining the watercourse is required to allow access for maintenance. Early discussion with the Council is required to determine the nature of the wayleave;
- it will not be acceptable to form a culvert unless no alternative solution is possible, or other benefits justify culverting. Where an exception is made, culverts should be designed and built to the best current practice.

The Council considers that wayleaves have the potential to provide public access to and along watercourses. Such provision shall be encouraged provided there is no deleterious impact on the flora and fauna which exist in such habitats. The Council will support proposals to open out existing culverts where practicable and safe.

#### 3 Drainage in New Development

##### 3.1 Drainage Assessment

Drainage impact assessments should be submitted for all developments which generate a need for foul or surface drainage. These should be submitted with the first planning application and comply with the requirements set out in *Drainage Assessment – A Guide for Scotland (Sustainable Urban Drainage Scottish Working Party – SUDSWP)*.

##### 3.2 Foul Drainage

Development within or in the locality of areas served by the public sewerage system will be required to connect to that system. Developers will, if necessary, be required to contribute to works to accommodate increased flows generated by their developments.



Development in villages or the countryside may not have the benefit of a public sewerage system or the capacity of communal septic tanks may be limited. In these locations, development will only be permitted where:

- a) agreements with Scottish Water are undertaken to extend the public sewerage system or where a system of similar specification, and meeting the standards of the Council's Building Standards service, is provided; or
- b) it is demonstrated that the costs of extending the public sewerage system are prohibitive in the context of the proposed development, in which case an appropriate sewage treatment system may be acceptable provided that the site is located in the countryside, and is small-scale (less than 5 dwelling units or population equivalent 15). The applicant will be required to demonstrate that the installation is appropriate with regard to soil porosity, groundwater and other receiving waters to the satisfaction of Scottish Water and SEPA.

### 3.3 Surface Drainage

All applications that require surface water to be drained are required to demonstrate that:

- a) surface water run-off will be treated to a standard appropriate to the receiving water; and
- b) surface water run-off peak flows will be attenuated to levels appropriate to the receiving watercourse or drainage system (generally no more than in the state before development).

A drainage assessment should demonstrate that the development takes into account Sustainable Urban Drainage Systems (SUDS) principles. For larger developments where the development is divided into multiple ownership (i.e. a large housing scheme), a drainage master plan may be required. The Council may require legal agreements to ensure maintenance of necessary features.

Engineering operations to retrofit SUDS will usually not require planning permission – where they are not above ground and are part of the public drainage system they have permitted development rights. The Council is supportive of efforts to retrofit SUDS, but where planning permission is required, applicants will be required to demonstrate:

- a) adequate design and siting to maintain public safety and amenity; and
- b) that cognisance is taken of contaminated land issues with regard to formation of new pathways from source to receptor.

All surface water drainage proposals are required to meet standards set out in *The SUDS Manual* (published by CIRIA, 2007) or successor documents. Scottish Water adoptable standards are included in *Sewers for Scotland 2nd Edition: A Design and Construction Guide for Developers in Scotland* (SFS2, 2008).

In respect of the relationship between SUDS run-off and the wider water environment, developers should be aware of the Water Environment (Controlled Activities) (Scotland) Regulations 2005, which require all surface water to drain to SUDS.

### 4 Water Framework Directive

Development will not be permitted which would result in the deterioration of a waterbody below the status required by the Directive or which is contrary to the objectives of the River Basin Management Plan (RBMP), once approved, in terms of habitat or recreation.

### 5 Groundwater Directive

Development which is harmful to the groundwater resource in Midlothian will not be permitted. In particular, development will not be allowed if it is likely to be deleterious to private water supplies, or other sensitive receptors, or which (cumulatively with other developments) would exceed maximum acceptable loading.





## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 13/00901/DPP**

Crummock (Scotland) Limited  
4A Butlerfield Estate  
Bonnyrigg  
EH19 3JQ

Midlothian Council, as Planning Authority, having considered the application by Mr Derek Hogg, 4A Butlerfield Estate, Bonnyrigg, EH19 3JQ, which was registered on 15 January 2014 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Re-grading of land and formation of storage yard (part retrospective) at Land South Of Units 2 to 4A, Butlerfield Industrial Estate, Bonnyrigg,**

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:2500	15.01.2014
Site Plan	131011 EXISTING LAYOUT AND LEVELS	15.01.2014
Site Plan	1310112 AS A3 PROPOSED LAYOUTS AND LEVELS	15.01.2014
Site Plan	1310112 PROPOSED LAYOUT AND LEVELS	15.01.2014
Proposed cross section	1310113	15.01.2014
Proposed cross section	1310113 AS A3	15.01.2014

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

1. The re-grading of the land will result in the loss of soft landscaping that provides screening of the site and the industrial operations on Butlerfield Industrial Estate. Consequently, the works would leave operations on the site, Butlerfield Industrial Estate, and the neighbouring Lady Victoria Business Centre including the coated roadstone plant on the southern part of it, exposed to views in and out, which would be significantly harmful to the landscape character and visual amenity of the area. Accordingly, the proposed development is contrary to adopted Midlothian Local Plan Policies RP5 (Woodland, Trees and Hedges) and RP7 (Landscape Character).
2. Owing to the levels of the site and the resultant elevation of the storage use on it relative to the neighbouring cottages at Brewers Bush and Ramsay Cottages and the nearby future residences at Redheugh, the storage use would have an unduly imposing and intrusive impact on these existing and future residences, harmful to their residential amenity. The detrimental impact would be exacerbated by the fact that there would not be any scope for adequate screen planting on the site to mitigate the harmful visual impact of the development as the proposed banking

along boundaries of the site would be so steep that it is unlikely that any trees would successfully be established on them. Consequently, the proposed development would detract materially from the character and amenity of the area, contrary to adopted Midlothian Local Plan Policy RP20.

3. The absence of sustainable urban drainage (SUDS) could result in both surface water contamination of the ground with the site and water run-off; including contaminated water run-off and flooding of neighbouring land and properties, harmful to the water environment, contrary to adopted Midlothian Local Plan Policy DP3.

Dated 5 / 3 / 2014

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

.....  
Duncan Robertson  
Senior Planning Officer; Local Developments  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

## **PLEASE NOTE**

*If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Development Manager, Development Management Section, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3ZN. A notice of review form is available from the same address and will also be made available online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk)*

*If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.*

### *Prior to Commencement (Notice of Initiation of Development)*

*Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Council's web site [www.midlothian.gov.uk](http://www.midlothian.gov.uk)*

## **IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION**

### *Making an application*

*Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.*

### *Making comment on an application*

*Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website.*

*The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representatives on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.*



# APPENDIX 11



CORPORATE RESOURCES  
FILE:  
RECEIVED - 3 APR 2014

Revision  
A: 1: Access Roadway added

**Crummock**  
*solutions in construction*

Client

Butlerfield Estate, Bonnyrigg, EH19 3JQ

Project

Materials Storage Yard

Title

Existing Layout and Levels

Date

15 October 2013

Drawn

DJH

Drawing Number

131011

Revision

A

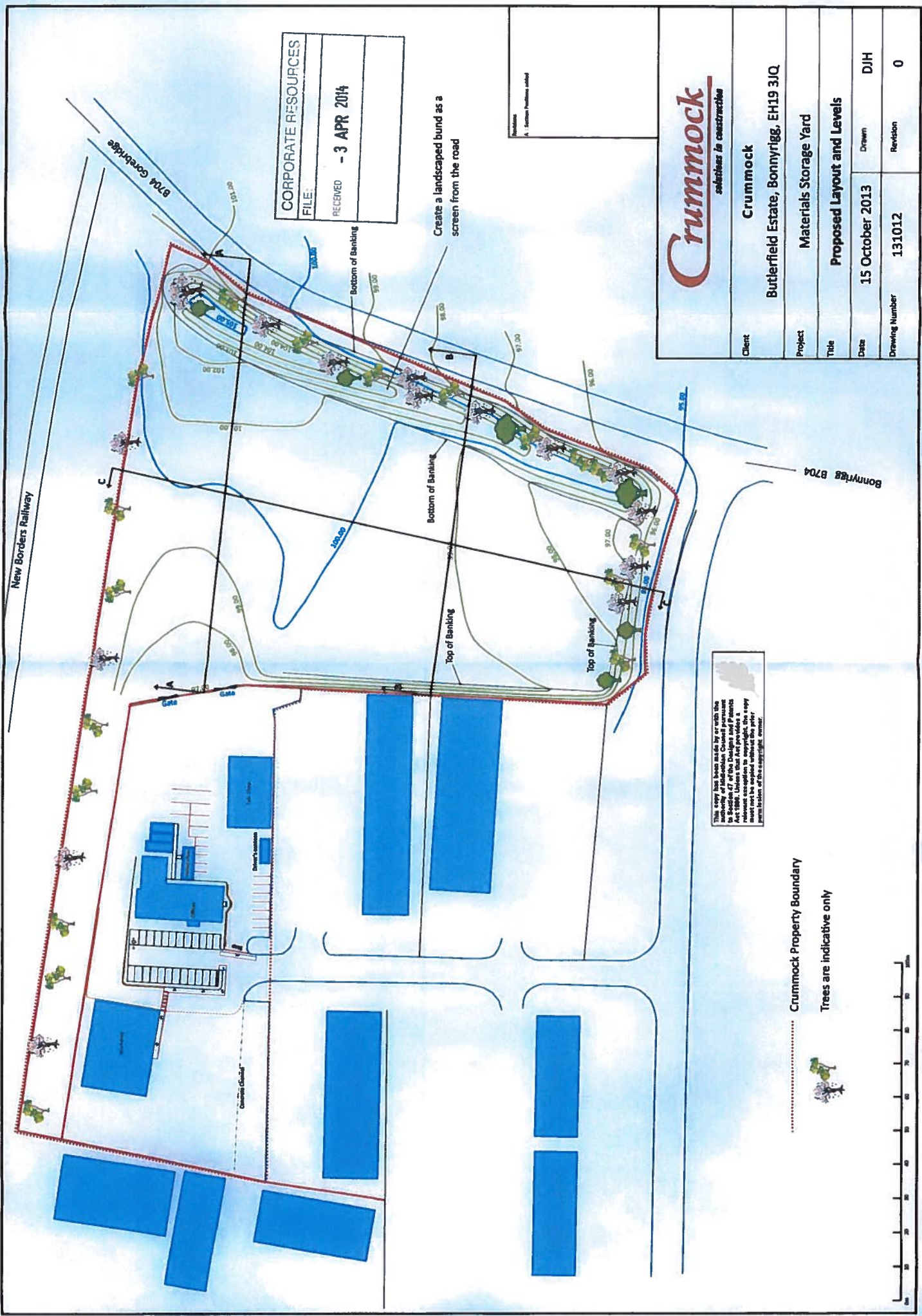
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..... Crummock Property Boundary

Trees are indicative only







CORPORATE RESOURCES  
FILE:  
RECEIVED - 3 APR 2014

Create a landscaped bund as a screen from the road

Prepared by:  
A. Graham (Planning) added

<b>Crummock</b> <i>solutions in construction</i>	
Client	Crummock
	Butlerfield Estate, Bonnyrigg, EH19 3JQ
Project	Materials Storage Yard
Title	Proposed Layout and Levels
Date	15 October 2013
Drawn	DJH
Revision	0
Drawing Number	131012

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..... Crummock Property Boundary

Trees are indicative only





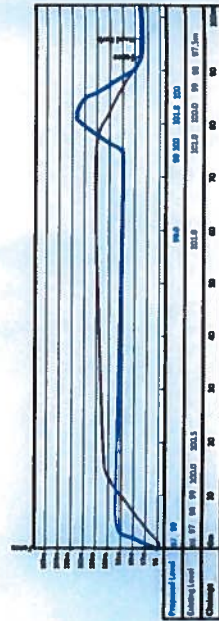
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Section CC



Section AA



Section BB

CORPORATE RESOURCES	
RECEIVED	- 3 APR 2014

<b>Crummock</b> <i>solutions in construction</i>	
Client	Crummock
Project	Butterfield Estate, Bonnyrigg, EH19 3JQ
Title	Materials Storage Yard
Date	15 October 2013
Drawing Number	131013
Drawn	DJH
Revision	0

