

MIDLOTHIAN AUDIT SERVICES

INTERNAL AUDIT REPORT

Not for Publication by virtue of
paragraphs 4, 6 & 14 of Part I of
Schedule 7A to the Local
Government (Scotland) Act 1973



Subject: Investigation of The Gourlaw / Newbigging / Shewington Opencast
Community Fund

Issued to: John Blair, Director, Corporate Resources
Gary Fairley, Head of Finance and Human Resources
Hillary Kelly, Head of Customer Services
Ian Johnson, Head of Planning and Development

Copied to: Members of the Audit Committee
Kenneth Lawrie, Chief Executive
Mary Bowman, Audit Scotland

Date: 12 April 2011

Author: Elaine Greaves, Senior Auditor

271 3285

CONTENTS

Contents	Page No
1) Introduction	2
2) Timescales of the Investigation	2
3) Remit and Scope	2
4) Background	2-5
5) Audit Conclusion	5-6
6) Findings - BRAJFC	7-11
7) Findings - General	11-12
8) Recommendations	13-14
9) Appendices Overview	15

Appendices	Details	Date
Appendix 1	Letter and Plan from BRAJFC requesting funding	4 March 2008
Appendix 2	Plan of Bonnyrigg Rose Social Club and BRAJFC site	-
Appendix 3	Minutes of the Gourlaw Sub Committee and General Purpose Committee Meetings dated 7 October 2008	-
Appendix 4	Letter to BRAJFC approving grant award	3 April 2009
Appendix 5	Invoice from Dalhousie Properties for £55,200 (£48,000 plus £7,200 VAT)	11 May 2009
Appendix 6	Letter to BRAJFC advising approval of payment for £27,600	30 June 2009
Appendix 7	Invoice from Dalhousie Properties for £32,609 (£28,356 plus £4,253)	30 Sept 2009
Appendix 8	Letter to BRAJFC advising approval of payment for £9,900	14 Jan 2010
Appendix 9	Letter to BRAJFC re use of area for public car parking	24 June 2010
Appendix 10	Letter from Bonnyrigg Rose Social Club	19 July 2010
Appendix 11	Letter from Council to BRAJFC requesting additional information	14 Dec 2010
Appendix 12	Quote and Bill of Quantities from Dalhousie Properties	14 Nov 2008
Appendix 13	Invoices from Dalhousie Properties for £20,000 (£17,391 plus £2,609 VAT) & £3,000 (£2,609 plus £391 VAT)	-
Appendix 14	Letter from BRAJFC – Acting Treasurer	14 Feb 2011
Appendix 15	BRAJFC Bank Statements	-
Appendix 16	Independent Surveyor's Report from Summers-Inman	8 April 2011
Appendix 17	Photographs of car park	-
Appendix 18	Funding Review	-

EXECUTIVE SUMMARY

1 Introduction

Internal Audit was formally requested by the Director Corporate Resources to investigate the award of funding made to Bonnyrigg Rose Athletic Junior Football Club (BRAJFC) from the Gourlaw/Newbigging/Shewington Opencast Community Fund to create a car parking area between Dundas Street and Lothian Street, Bonnyrigg; which would be available to the public. This request for an audit investigation followed concerns raised by the Poltonhall & District Community Council (PDCC) in September 2010 over the alleged non-completion of the works and the lack of access to the car park by the public.

A desk top review of the decisions and supporting documentation relating to the Gourlaw Sub Committee and the General Purposes Committee was undertaken by the Director Corporate Resources, prior to referral to Internal Audit.

2 Timescales of the Audit Investigation

A number of delays in obtaining information occurred during the audit investigation. The chronology of events relating to the audit investigation is as follows:

- The investigation, by Internal Audit, commenced on 1 November 2010 and the initial working draft report was produced on 6 December 2010; indicating that further information was required to progress the audit;
- A letter requesting further information was sent to BRAJFC on 14 December 2010;
- Telephone calls requesting a response to the letter were made to the chairman on: 11, 21 and 27 January 2011. Internal Audit were advised by the chairman to contact the Acting Treasurer directly;
- Telephone calls requesting a response were made to the Acting Treasurer on 27, 28, 31 January and 1, 4 and 11 February 2011;
- Information was provided by the chairman to the Council on 3 February 2011;
- Information was provided by the ex-president to the Council on 11 February 2011;
- Information was provided by the Acting Treasurer to the Council on 15 February 2011;
- An independent survey was initiated on 28 February 2011 and a draft report was provided on 16 March 2011 identifying that further onsite investigatory works were required;
- A letter inviting BRAJFC to a meeting with the Council was sent to the chairman on 24 March 2011;
- A letter requesting permission to take a core sample of the car park was sent to Bonnyrigg Rose Social Club on 24 March 2011;
- Permission was received on 25 March 2011 and a core sample of the car park was taken on 4 April 2011;
- Telephone call requesting a response to the proposed meeting (letter dated 24 March 2011) was made to the chairman on 31 March 2011;
- Final report from the independent surveyor was received on 8 April 2011;
- Final audit report was produced on 12 April 2011.

3 Remit and Scope

The objective of the investigation was to determine whether there had been any fraudulent activity, to review the controls surrounding the administration of the opencast mining funds, to review the associated processes and procedures and to recommend improvements to controls; where required.

4 Background

4.1 Opencast Community Fund

The Gourlaw Opencast Community Fund was created in 1998 and resulted from a planning agreement whereby Scottish Coal agreed to pay the Council £0.25 per tonne of coal extracted from the Gourlaw Farm site in Rosewell. This funding was to be used for the

EXECUTIVE SUMMARY

benefit of the environment in the communities of the areas immediately surrounding both the opencast site and the coal haulage route to / from the site and the Edinburgh outercity bypass. Further sites were opened at Newbigging Farm in 2004 and Shewington Farm in 2007 and the funding obtained from them was amalgamated with the Gourlaw Community Fund. The amount in the bank accounts as at 30 September 2010 was £308,047, less committed expenditure of £140,212, leaving a balance of £167,835.

A Sub Committee of the General Purposes Committee; The Gourlaw Sub Committee, was established in 2002 to consider applications for funding and to make recommendations for the award of funding to the General Purposes Committee.

4.2 Car Park Funding

A letter dated 4 March 2008 was received from the president of BRAJFC requesting monies from the fund be used to create a car parking area within their grounds which could be used by the public on non-match days (see Appendix 1). The letter detailed that the cost of the works were estimated to be £75,000; of which 50% of the cost was requested. The works detailed in the letter were as follows:

- removing a wall;
- demolishing an existing hut;
- erecting palisade fencing; and
- all 'other' ground works etc.

The Sub Committee met on 7 October 2008 and recommended the award of £37,500 be made to BRAJFC from the Community Fund on the basis that it would be made available for public use on non match days. This, in addition to other projects, was subsequently approved by the General Purposes Committee, also on 7 October 2008, subject to the approval of Scottish Coal (see Appendix 3 for the minutes of meetings).

A letter was sent to BRAJFC by the Council on 3 April 2009 (see Appendix 4) advising that approval had been given to the disbursement of a maximum sum of £37,500 in respect of the creation of a car parking area at the rear of Lothian Street / Dundas Street (Bonnyrigg) on the basis that BRAJFC would be able to attract match funding of 50%.

An invoice dated 11 May 2009 from Dalhousie Properties Ltd (see Appendix 5) addressed to the treasurer of BRAJFC detailing works undertaken to value of £55,200 (£48,000 plus £7,200 VAT) was received by the Council. A cheque in payment of 50% of this invoice (£27,600) was sent to the club on 3 July 2009 (see Appendix 6) and was made payable to BRAJFC.

A further invoice dated 30 September 2009 (see Appendix 7) from Dalhousie Properties Ltd and addressed to the president of the club detailing works undertaken to the value of £32,609 (£28,356 plus £4,253 VAT) was received by the Council. A cheque payment for £9,900 was sent to the club on 25 January 2010 (see Appendix 8) and was made payable to BRAJFC.

The Council Secretary sent a letter, dated 24 June 2010 (see Appendix 9), to the president of the club asking for confirmation when the necessary works would be completed and the area made ready for use. The letter was returned with a covering letter (dated 19 July 2010) from the chairman of the Social Club (see Appendix 10) advising that the former president of the club was no longer associated with Bonnyrigg Rose Social Club. This response also stated that Bonnyrigg Rose Social Club were never consulted on any developments regarding the car park and on checking their title deeds it appears that they should have been consulted on any developments to any part of their land.

4.3 Further Information Provided

Following a written request from the Director Corporate Resources on 14 December 2010 (see Appendix 11) and a number of reminders, further information was provided to the Council as follows:

EXECUTIVE SUMMARY

The ex-president of BRAJFC provided the following information to the Council on 11 February 2011:

- 3 quotations and bills of quantities as below (see Appendix 12 for the quotation and bill of quantities submitted by Dalhousie Properties):

Name of Company	Date of Quote	Price Quoted	VAT	Total
Dalhousie Properties	14 November 2008	£64,515	£11,290	£75,805
Crummock	18 November 2008	£67,908	£11,884	£79,792
Fulcrum	20 November 2008	£72,276	£12,648	£84,924

- 2 invoices from Dalhousie Properties as below (see Appendix 13):

Date	Description	Amount	VAT	Total
20 July 2009	Interim Payment (No 1)	£17,391	£2,609	£20,000
15 Oct 2009	Interim Payment (No 2 Final)	£2,609	£391	£3,000
	Total	£20,000	£3,000	£23,000

The Acting Treasurer of BRAJFC provided the following information to the Council on 15 February 2011:

- a letter dated 14 February 2011 and bank statements (see Appendices 14 and 15). The letter states that 'the club paid £23,000 to the (ex-president) / Dalhousie Properties direct from the bank account' 'this is the absolute minimum that could have been paid as the club dealt almost exclusively on a cash basis at the time, so between sponsorship monies etc it could have been more or costs could have been covered by the (ex-president) himself in his role as chairman and main sponsor'.
- The BRAJFC bank statements (see Appendix 15) show the following transactions:

Date	Paid In	Withdrawn
8 July 2009	£27,600	
27 July 2009		£20,000
1 Feb 2010	£9,900	
9 Feb 2010		£3,000

Within the written request from the Director Corporate Resources on 14 December 2010, the club were requested to advise whether the BRAJFC Committee approved the decision to approach the Council for funding to undertake the proposed works to the car park. The letter also requested a copy of any Committee Meeting minutes, held by BRAJFC, detailing any discussions / decisions made relating to the proposed works and / or the seeking of funding from the Council.

The Council was advised in a telephone conversation between the chairman and the Senior Auditor on 11 January 2011 that Committee Meeting Minutes had not been taken so these could not be provided. In addition, a letter was provided to the Council, by the chairman of BRAJFC on 3 February 2011, stating that 'I can confirm that the following Committee Members have no knowledge of any transactions regarding the Car Park at Bonnyrigg Rose FC' (3 names were subsequently listed).

4.4 Independent Surveyor's Report

An independent review of the procurement and construction arrangements of the new car park was undertaken by Summers-Inman Construction and Property Consultants in March 2011 and a final report was provided to the Council on 8 April 2011 (see Appendix 16). The report concluded that:

EXECUTIVE SUMMARY

- 'It would appear from the information provided that the processes utilised when tendering the project were inadequate on a project partly funded by Midlothian Council, albeit the works appear to have been competitively tendered. There are also major issues with the fact that the tendered works have not been completed. The invoicing from the main contractor to the client is also highly unorthodox and from the information we have it would appear that Midlothian Council have overpaid for sub standard work.
- The quality and condition of the works in general are poor, specifically the new car park surface, leading to queries relating to its suitability as a car park for public use. In addition, the lack of provisions for disabled persons, and queries relating to the proposed management and control of public parking, lead us to the opinion that the car park is not fit for purpose, or public use.'

Several recommendations were made by the independent surveyors which can be found in the report detailed in Appendix 16.

5 Audit Conclusion

The audit investigation revealed that controls over the administration of the Community Fund and in particular the award of £37,500 to BRAJFC were inadequate. The land for which the funding was provided to create a car park is not currently in a fit state to be used by the public and there does not appear to be any plans for further work to be done to the car park.

An independent survey of the construction of the car park was undertaken and this concluded that the car park is not fit for purpose for public use and the quality and condition of the works in general are poor; specifically the car park surface. The value of the work undertaken, in relation to the car park, was estimated to be £41,305 by Summers-Inman. Invoices to the value of £87,809 (£76,356 plus £11,453 VAT) were submitted by Dalhousie Properties to BRAJFC and it therefore does not appear that works to this value have been completed in respect of the car park works.

'Other works' appear to have been completed but these were not in the original scope of the works approved by the Council and not related to the provision of a car park. In addition, the invoices from Dalhousie Properties do not list 'other works' as having been completed. The independent survey stated that if a full tarmacadam surface been specified and properly constructed on site it is estimated that those works could have potentially been constructed within the budget cost (£75,000) given a competitive market.

As part of the investigation, 2 further invoices to the value of £23,000 (£20,000 plus £3,000 VAT) were submitted to the Council on 11 February 2011 for the car park refurbishment (see Appendix 13). It would appear that these latter invoices supersede the original invoices provided as they match the amounts paid from the BRAJFC bank account (see Appendix 15). No evidence has been provided by BRAJFC detailing payments from their bank account to the contractor for £87,809 (£76,356 plus £11,453 VAT). This is highly unorthodox as the Council have paid £37,500 to the club based on the original invoices submitted to the Council (see Appendices 5 and 7). It therefore appears that the Council may have overpaid the club by £26,000 based on the £23,000 paid to the contractor (see Appendix 18). The Council have contacted BRAJFC to request a meeting to discuss the invoices and a number of other related issues but the club have failed to respond.

Other issues relating specifically to the funding awarded to BRAJFC are as follows:

- it appears that the club did not provide 50% match funding (£37,500) as stipulated in the request for funding;
- the Council's Code of Guidance on Following the Public Pound has not been complied with;
- there was a lack of planning and monitoring by the Council over the funding awarded to BRAJFC;

EXECUTIVE SUMMARY

- no formal terms and conditions or written agreement of acceptance of these were provided / obtained from BRAJFC by the Council;
- the Council did not take steps to ensure that BRAJFC had obtained the necessary permissions (from the land owners and the Council as local planning authority) to create a car park which could be used by the public;
- the ex-president of the club awarded the work to undertake the works to his own company, thus creating a potential conflict of interest;
- there has been no publicity or recognition of the funding provided by Scottish Coal which was a condition stipulated when approval was granted.

The issues relating to the administration of the Community Fund are as follows:

- the Committee Meeting minutes recorded the decisions to approve or decline projects but did not detail why applications had been approved / declined resulting in a lack of audit trail;
- technical officers' comments were not obtained for the 4 applications that were approved on 7 October 2008. If they had been obtained for the BRAJFC application, this may have highlighted the various issues that have since come to fruition;
- there have been examples of inadequate customer care / administration of the fund resulting in complaints;
- there is an apparent lack of awareness of the Council's Code of Guidance on Following the Public Pound (approved by the Corporate Management Team in 2006) within the Council Secretariat section resulting in this not being followed for funding awarded from the Community Fund;
- £139,478 has been paid by the Council for projects awarded funding but this sum has not been reclaimed from the Community Fund bank account. The majority of this expenditure was incurred approximately 1 year ago;
- there has been a lack of evidence detailing the amount of coal / fireclay extracted from the opencast sites and no reconciliation of payments to these records to ensure the correct amounts have been received;
- the availability of funding from the Community Fund does not appear to be publicised which may result in potential applicants being unaware of the existence of such funds.

The detailed findings from the investigation and recommendations to improve controls over the administration of the fund can be found in the Management Action Plan on pages 7-14. Supporting documentation relating to the funding awarded to BRAJFC can be found in Appendices 1 to 18.

MANAGEMENT ACTION PLAN

6. Findings - BRAJFC

6.1 Works Undertaken

An initial meeting was held on site with the current chairman of BRAJFC on 11 November 2010 and the invoices were reviewed to identify what work had been charged for and what work had been completed. On viewing the site, it was found that the car park is in no fit state to be used by the public and the chairman advised that there are no plans for any further ground works to be completed for the car park. He stated that some lights are due to be fitted to the floodlight pole, but these are being completed by the club and not by Dalhousie Properties (the original contractor).

An independent survey of the construction of the car park was undertaken in March / April 2011 and this also concluded that the car park is not fit for purpose or public use and the quality and condition of the works in general are poor; specifically the car park surface. The value of the work undertaken, in relation to the car park, was estimated by the independent surveyors to be £41,305. Other work appears to have been completed but this was not in the original scope of the approved works and not related to the provision of a car park which could be used by the public. The survey stated that if a full tarmacadam surface been specified and properly constructed on site it is estimated that those works could have potentially been constructed within the budget cost (£75,000) given a competitive market.

The works charged for, as per the original invoices totalling £87,809 (£76,356 plus £11,453 VAT), and the works which have / have not been completed as per the audit visit and the independent survey findings are summarised in the table below (see photographs in Appendix 17):

Works Specified as per Original Invoices (Appendices 5 and 7)	Comments on Specified Works
Demolish old buildings including timber hut, old brick toilets and brick shelter with concrete roof	Partially done The bill of quantities included £1,565 for demolishing the existing brick foundations and removing off site but the independent survey revealed there is still evidence of brickwork footings of the demolished building
Demolish old perimeter wall to allow formation of new access road	Done Access road since blocked off by a wooden box filled with concrete. (see photos no 4&7)
Clear site using lorries and 360° excavator and leave footplate ready to receive finishing coating to form new road and car park	Partially done The bill of quantities does not include an item for breaking up the existing hard surface, or any excavation, re-grading or levelling of the existing surface prior to laying the hardcore and tar shavings surface. (see photo no 6)
Import hardcore base material, spread and roll to suitable levels then import tar finishing coat	Partially done The independent survey stated that the build up of surface is approximately 250mm of hardcore material consisting of crushed rubble / waste material such as brick, concrete etc which is of very poor quality. The hardcore material has been overlaid with a top surface of approximately 50mm of tar shavings or road planings. The tar shavings surface appears to be contaminated with brick, concrete and other waste materials, sparsely laid and inadequately compacted. The surface is uneven, there are a number of potholes evident and previous areas of tarmac and brickwork footings of the demolished building remain. (see photos no 2,3,4,5&6)
Erect new palisade to new perimeter lines Finish off perimeter fencing to secure site	Done The independent survey stated that new palisade fencing has been installed but on checking the stanchions it was noted that 1 of the stanchion has not been bedded in concrete, although the majority of stanchions appear to have been set in concrete. In addition, the bill of quantities lists 2 different heights and lengths of fence. (see photos no 4&5)

MANAGEMENT ACTION PLAN

Works Specified as per Original Invoices (Appendices 5 and 7)	Comments on Specified Works
Strip out existing street lighting, terminate as required then install new car park lighting	Partially done The independent survey stated that there is evidence of new lighting pylons being installed but at least 1 of the pylons does not have any lamps fitted and it is unknown whether the lighting is connected to the existing power supply. (see photos no 1,5,6&7)
Knock down existing wall between Calderwood and BRAJFC to allow formation of new vehicular ramp	Partially done A part of the wall between the Calderwood car park and the Social Club car park has been knocked down, a gate taken away and a ramp created. The independent survey stated that the tar ramp is of a poor standard as the hardcore sub-base is not contained at the sides of the ramp and the edges have not been sealed to the surrounding surfaces. The quantity allowed for the ramp in the bill of quantities does not appear to correspond with what has been formed on site. (see photos no 4&7)
Supply and erection of a removable gate	Not done It is assumed that this was to be installed at the site of the new ramp but a wooden box now occupies this space to prevent access being obtained to the car park via the Calderwood car park. (see photos no 4&7)

6.2 Invoices / Match Funding

Invoices from Dalhousie Properties totalling £87,809 (VAT inclusive) were originally submitted by BRAJFC in 2009 (invoice for £55,200 dated 11 May 2009 and invoice for £32,609 dated 30 September 2009). As part of the investigation, two further invoices to the value of £23,000 (VAT inclusive) were submitted to the Council on 11 February 2011 for the car park refurbishment (invoice for £20,000 dated 20 July 2009 and invoice for £3,000 dated 15 Oct 2009 – see Appendix 13).

It would appear that these latter invoices supersede the original invoices provided as they match the amounts paid from the BRAJFC bank account. No evidence has been provided by BRAJFC detailing payments made from their bank account to the contractor for the sum of £87,809. This is highly unorthodox as the Council have paid £37,500 to the club based on the original invoices. It therefore appears that the Council may have overpaid the club by £26,000 based on the sum of £23,000 being paid to the contractor (see Appendix 18). The Council have contacted BRAJFC to request a meeting to discuss the invoices and a number of other issues following receipt of the independent surveyor's report but the club have failed to respond.

The Acting Treasurer's letter dated 14 February 2011 stated that 'the club paid £23,000 to the (ex-president) / Dalhousie Properties direct from the bank account.... this is the absolute minimum that could have been paid as the club dealt almost exclusively on a cash basis at the time so between sponsorship monies etc it could have been more or costs could have been covered by the (ex-president) himself in his role as chairman and main sponsor.' The Acting Treasurer provided bank statements for BRAJFC with his letter (see Appendix 15) and these show that a total of £37,500 was paid into and a total of £23,000 was withdrawn from the bank account (in July 2009 & February 2010).

The Chairman advised that BRAJFC did not provide 50% match funding for the works; which was a condition of the funding award. He stated that the club did not have the funding at that time to contribute towards the project and they currently have financial difficulties. The club applied for various grants to bodies such as the Lottery, Sportscotland etc but it is understood that these applications were unsuccessful.

6.3 Dalhousie Properties

The ex-president of BRAJFC is the sole Director of Dalhousie Properties so it appears that he has awarded the work to his own company thus creating a potential conflict of interest. As part of the

MANAGEMENT ACTION PLAN

investigation, quotations and bills of quantities from 3 companies were provided to the Council on 11 February 2011, directly by the ex-president, and these show that Dalhousie Properties submitted the lowest quote. It was noted that the covering letters for 2 of the companies: Crummock and Fulcrum; had not been signed and it is unknown whether the quotes (each with a different date) were received on the same or different dates. Good procurement practice stipulates that tenders should be returned and opened on the same day to prevent potential price manipulation. The current chairman advised that the BRAJFC Committee were not aware of any tenders / quotes being provided to the club.

6.4 Monitoring / Planning

The audit investigation revealed that there was a lack of planning and monitoring by the Council over the funding awarded to BRAJFC. This has resulted in £37,500 being paid for a car park which has not been completed to a satisfactory standard and is not currently in a fit state to be used by the public. The Council's Code of Guidance on Following the Public Pound states that monitoring should have been carried out by an officer who was not involved in the decision to award the funding and should have included a review of expected outcomes against actual outcomes to establish that the funding has been spent according to the plan. Monitoring should have been undertaken from the outset to ensure that the funding was being utilised for the intended purpose and that the funding had the desired impact. Good practice would have also included planning and discussions over arrangements for the car park being made available to the public (eg signing of an agreement, permission from land owners, discussions over whether the car park was to be adopted by the Council etc).

A memo from the Council Secretariat section and a copy of the final invoice was sent to Commercial Services on 2 December 2009 requesting confirmation that the work had been completed satisfactorily and to consider (and make arrangements for) the introduction of public use of the car park. A reply was sent by Commercial Services on 13 January 2010 stating 'with regard to your specific issues I can confirm that upgrade works have been completed in the vicinity of Dundas Park. In the absence of a specification I am unable to comment fully on the extent of the works. I have asked my colleague to develop arrangements for the introduction of public car parking. Accordingly, this will allow you to progress with the decisions of the General Purposes Committee'. The final payment of £9,900 was made by the Council on 25 January 2010.

Discussions with Commercial Services revealed that a site visit to BRAJFC was undertaken but it was difficult to see what had been done given the limited knowledge of the site prior to 'works' being undertaken, the unavailability of a specification and limited information regarding the scope of works. It has since been confirmed by Commercial Services that the Council would not adopt the car park for public use in its current state.

No monitoring was undertaken prior to the first payment of £27,600 on 3 July 2009. Adequate monitoring should have been undertaken before **any** payments were issued to BRAJFC. The involvement of technical officers from Commercial Services at the outset might have negated this position.

6.5 Planning Permission

Following discussions with the Council's Planning Enforcement Officer and a site visit on 11 November 2010, it has been advised that:

- the car park area outside the social club has increased in width which is a change of use of the ground and therefore planning permission would have been required for this;
- there are two pre-fabricated buildings on the site which will require planning permission if they are to be retained;
- Building Standards section has concerns that there are matters which may have or may still require a building warrant (eg the pre-fabricated buildings would need a warrant before they are used by the club).

The Council's Planning Enforcement Officer wrote to BRAJFC on 17 November 2010 stating that 'the Council appreciates that the club is not currently in a financial position to either apply for planning permission or remove the pre-fabricated buildings and therefore it is not the intention of the Council to

MANAGEMENT ACTION PLAN

take any formal action at the moment. However it is not a situation that can be allowed to continue and therefore I would appreciate the opportunity to meet with you when you have had the opportunity to discuss the matter with your membership and propose that we aim to meet in mid January'.

A further meeting was held by the Council's Planning Enforcement Officer and BRAJFC on 22 February 2011 and the outcome was that the club are likely to submit a retrospective planning application for: the buildings; the change of use of ground to car parking area and the erection of a fence.

A review of the title deeds of the property revealed that Bonnyrigg Rose Social Club own the majority of the car park and BRAJFC own the land recently converted to become part of the new car park (see Appendix 2). Therefore, landowners' permission should have been obtained from the Social Club before any works to this area were undertaken.

6.6 Terms and Conditions of Funding

The Council's Financial Regulations and COSLA's / the Council's Code of Guidance on Following the Public Pound state that it is important to ensure that there is clear accountability for public monies whilst at the same time ensuring that monies are spent in an efficient and effective manner and used for the purposes for which they were intended. To enable this to be achieved, formal terms and conditions for grants or funding awarded and written agreement of acceptance of these should be in place. It was found that no formal terms and conditions or written agreement of acceptance of these were provided / obtained by the Council for funds awarded from the Community Fund. There is an apparent lack of awareness of the Council's Code of Guidance on Following the Public Pound within the Council Secretariat section resulting in this not being followed for funding awarded from the Community Fund. Whilst this code was approved by the Corporate Management Team in 2006, it appears that this information was not communicated to the Council's Secretariat section at that time.

In respect of the funding awarded to BRAJFC, a letter was issued stipulating that 'approval has been given to the disbursement of a maximum sum of £37,500 in respect of the creation of a car parking area at the rear of Lothian Street / Dundas Street, on the basis that you will be able to attract match funding of 50%. Consideration is being given to press coverage about which further information will follow' (see Appendix 4). No other conditions were stipulated other than a requirement to provide copies of invoices to enable funding to be released. It appears that the Council's Code of Guidance on Following the Public Pound has not been complied with in relation to this funding award.

Terms and conditions which could have been stipulated include:

- copies of all relevant paperwork to be provided before project accepted;
- obtaining written confirmation of the 50% matched funding for the project;
- documentation of the purpose of the funding, the duration of the funding offer, details of when the project will start on site and when expected to be completed;
- copies of quotations or a tender report to be provided for each element of the work indicating who the chosen contractor is and how value for money has been achieved;
- key milestones and recognition of achievement to be documented including plans for making the car park available to the public;
- stipulation that the scope or delivery of the project must not be altered without prior written permission from the Council and that failure to inform the Council of any changes to the project may result in funding being withdrawn;
- confirmation that planning permission / permission from land owners has been obtained, where required, prior to the commencement of the project;
- stipulation that work must not start on the project and no payments will be made / authorised until agreement to the project terms and conditions have been confirmed by signing and returning the contract / letter;
- confirmation of whether funding should be paid directly to the contractor or whether the club will be paying the contractor and seeking reimbursement;
- details of a publicity plan publicising the funders of the project and the work the applicants are doing.

MANAGEMENT ACTION PLAN

6.7 Publicity

As previously stated, press coverage of the award of the funding to BRAJFC should have been undertaken. This was stipulated by Scottish Coal in their email of 14 November 2008; approving the award of funding to BRAJFC. The email stated 'I should be grateful if you could arrange for acknowledgement that the monies have come from the opencast fund eg via any press releases being issued on the commencement / completion of the projects or at any opening ceremonies'. This has not been completed in respect of the funding awarded to BRAJFC, despite the fact that it was paid more than 1 year ago.

7 Findings - General

7.1 Committee Decision

A review of the documents pertaining to the meetings of the Gourlaw Sub Committee and the General Purposes Committee on 7 October 2008 revealed that funding had been requested for 32 projects; submitted by 8 applicants. From these applications, recommendations were made to award funding to 4 projects as detailed below:

Applicant	Project	Amount Awarded
PDCC	Notice board (no longer required)	£734
BRAJFC	Car park	£37,500
Land Services	Walkway at Dalhousie Chesters	£50,000
Bonnyrigg Parish Church	Maintenance of the fabric of the church	£2,200

- 14 applications were 'declined' and 8 applications were 'continued' as further information was required. 'No action' was taken for 6 applications as they had been completed using separate funding arrangements.
- The minutes of the meeting do not detail why the applications were declined although further explanation was provided in the Technical Officers' Comments Document which was submitted to the Committee to assist with the decision making process.
- A review of the Technical Officers' Comments Document revealed that technical officer's comments were not provided for 4 out of the 32 projects submitted to the Committee. All 4 of these projects, including the application from BRAJFC were 'agreed' as detailed above.
- It is suggested that Technical Officers' comments should have been obtained for the BRAJFC proposal and if this had been undertaken, it may have highlighted the various issues that have since come to fruition.

7.2 Administration of the Community Fund

The Community Fund is operated by Secretariat Services and the accounts for the fund are maintained by Corporate Finance. It is considered unusual for the Secretariat Services section to undertake this role and it appears that this arrangement has evolved over time following internal changes within the Council. It is suggested that this may not be the most suitable arrangement for the overall administration of the Community Funds by the Council.

There have been complaints over a lack of response to queries raised / information requested; particularly from PDCC. This has resulted in 1 Freedom of Information (FOI) request being submitted on 3 November 2008 (which was responded to appropriately) and a suggestion in September 2010 that a further FOI request may be submitted due to a lack of response to queries made to the Council.

Examples of inadequate customer care / administration of the fund identified during the investigation were as follows:

- It took approximately 5 months ie from November 2008 (when approval for funding was granted by Scottish Coal) until April 2009 before letters of award were issued to the 4 successful applicants. It also took approximately 5 months (from the Committee meeting in October 2008 until March 2009) before letters of regret were issued to the unsuccessful applicants. It has been reported that this was due to a lack of resources and work pressures in the section at the time;

MANAGEMENT ACTION PLAN

- There are no internal procedures / guidance notes detailing how to administer the Community Fund. There is no standard documentation, application forms or terms and conditions for funding (as detailed in finding number 6.6);
- A complaint was made by PDCC that inaccurate accounts for 2009/10 had been sent to them in June 2010 (they hadn't been updated with the expenditure which had been approved by the Committee in April 2010).

7.3 Community Fund Bank Account

A review of the Community Fund bank account (as at 30 September 2010) revealed that £139,478 has been paid out by the Council for funding awarded but has not been reclaimed from the bank account. The majority of this expenditure was incurred circa 1 year ago and only 1 payment has ever been reclaimed from the bank account (in 2005). It has been reported that this is due to difficulties with getting the cheques signed by the joint holders of the funds (ie Scottish Coal and the Council).

7.4 Payments from Scottish Coal

Scottish Coal is required to send a quarterly certificate with their payment to the Council detailing the tonnage of coal extracted over that period. A review of the all of the quarterly payments revealed that Tonnage Certificates were not in the file for 9 quarters so it could not be clarified that the Council had received the correct amount of monies (reminders for these have previously been issued to Scottish Coal).

The Minute of Agreements between the Council and Scottish Coal state that:

- 'a final audit of the Company's records in relation to the amount of coal prepared as hereinafter provided for should be carried out within 28 days of the cessation of coaling operations on the said opencast site';
- 'at the end of each year the company will procure that its auditors issue an audited certified statement of the amount of coal extracted during the preceding year';
- 'an interim audit of the Company's records in relation to the amount of coal prepared as hereinafter provided for to be carried out by the Planning Authority during coaling operations';
- 'the contribution rate shall mean the rate of £0.25 per tonne of coal and £0.05 per tonne of fireclay (for the Shewington Opencast Coal Site extension).

A review of the files revealed that:

- a final audit report has not been received from Scottish Coal for the Newbigging Farm site. Coaling ceased at this site in spring 2007;
- audited certified statements of the amount of coal extracted during the preceding year were not in the file for any of the sites;
- although consultants have been appointed by the Council to undertake quarterly site monitoring, they have not undertaken any monitoring over the tonnage of coal extracted. This was highlighted to the Council by the consultants in a letter dated 14 April 2010;
- no payments have been received in respect of the extraction of fireclay (this however may be because none has been extracted but this has not been formally clarified).

7.5 Publication of the Community Fund

The availability of funding from the Community fund does not appear to be publicised. The majority of funding applications are received from local Community Councils and very few applications have been received from other local organisations. A review of the Council's website and Online Funding Database revealed that there is no mention of the Community Fund. A lack of publicity regarding this funding may result in potential applicants being unaware of its existence and possible projects not being considered. It is also important to recognise and publicise the contribution being received from Scottish Coal as significant sums of money have been made available to be used towards community projects.

The requirement to acknowledge the fund and Scottish Coal's contributions have been stipulated in each letter of approval received from them. It is noted that this was completed for the project to upgrade the Penicuik to Dalkeith Walkway in 2010.

MANAGEMENT ACTION PLAN

8.1 Recommendations - BRAJFC

No	Recommendation	Priority	Manager	Target Date
1	The Council should liaise with the club and seek an explanation for the additional invoices provided during the audit investigation and answers to the queries raised by the independent surveyors (see Appendix 16, page 11).	High	Director Corporate Resources	31 May 2011
2	Should it be confirmed that an overpayment has arisen, this should be recovered by the Council. In addition, funding paid to BRAJFC should be recovered if completion / availability of the car park for public use is not carried out to the standard required and within a reasonable timescale.	High	Director Corporate Resources	31 May 2011
3	Should the car park at BRAJFC become available for public use, suitable publicity, including reference to the contribution provided by Scottish Coal from the Community Fund, should be undertaken.	Medium	Director Corporate Resources	31 Dec 2011
4	Planning should continue to monitor the planning and building warrant issues at BRAJFC and ensure the necessary actions are taken.	Medium	Development Management Manager	30 Nov 2011
5	Consideration should be given to informing Scottish Coal about the anomalies found during this investigation.	Medium	Director Corporate Resources	31 May 2011

8.2 Recommendations - General

No	Recommendation	Priority	Manager	Target Date
6	Monies due to the Council (£139,478) from the Community Fund bank account should be obtained with immediate effect.	High	Financial Services Manager	31 May 2011
7	A review of the administrative arrangements for the Gourlaw Community Fund should be undertaken and consideration given to transferring this to a section within the Council which is experienced in providing funding to external bodies. It is noted that the General Purposes Committee established a short life working group at its meeting on 5 April 2011 to review Open Cast Funds and Small Trusts.	High	Director Corporate Resources	31 May 2011
8	The Council's Code of Guidance on Following the Public Pound should be complied with for all relevant awards from Community Funds.	High	Director Corporate Resources	Immediate
9	Formal terms and conditions and written agreement of acceptance of these should be in place for all funding awarded from Community Funds. These should include the issues stipulated in finding no 6.6.	High	Director Corporate Resources	31 May 2011
10	Monitoring of all funding awarded, including inspection of works completed, should be undertaken from outset and before any funds are paid out.	High	Director Corporate Resources	Immediate
11	The Council should ensure that applicants for funding have secured permission from land owners and / or obtained planning permission, where required, before funding is awarded.	High	Director Corporate Resources	Immediate

MANAGEMENT ACTION PLAN

No	Recommendation	Priority	Manager	Target Date
12	The Gourlaw Sub Committee should be advised that reasons for agreeing or declining funding requests should be given and the minutes should be updated to reflect this.	Medium	Legal and Secretariat Manager	31 May 2011
13	Where applicable, all applications for funding, submitted to the Gourlaw Sub Committee, should have associated technical officers' comments.	Medium	Director Corporate Resources	31 May 2011
14	Responses to queries from the public should be provided promptly to ensure good customer service is provided. Appropriate action should be taken to ensure that all staff are aware of the standards of customer care / administration expected within the Council.	Medium	Director Corporate Resources	31 May 2011
15	The Gourlaw Sub Committee should meet as required to consider applications for funding from the Community Funds and applicants should be advised timeously of the decision made regarding their request.	Medium	Legal and Secretariat Manager	Immediate
16	Standard documentation / application forms and procedures / guidance notes detailing how to administer the Community Funds should be produced.	Medium	Director Corporate Resources	31 May 2011
17	Publicity over the availability of funds from the Community fund should be increased to ensure all potential applicants are aware of its existence. Consideration should be given to inserting this on the internet and also the Online Funding Database. An acknowledgment of Scottish Coal's contribution should be included.	Medium	Director Corporate Resources	31 May 2011
18	Future monies due to the Council from the Community Fund bank account should be obtained promptly after expenditure has been incurred. The responsibility for this and the process required should be clearly documented to ensure this is done.	Medium	Financial Services Manager	Immediate
19	A final audit report detailing the total amount of coal extracted from the Newbigging Farm site should be obtained and reconciled with the payments received to ensure the correct amount has been received	Medium	Financial Services Manager	30 June 2011
20	An audited certified statement of the amount of coal extracted during the preceding year should be obtained for all ongoing opencast mining. This should be reconciled with the payments received to ensure the correct amount has been received by the Council.	Medium	Financial Services Manager	30 June 2011
21	The consultants appointed by the Council to undertake quarterly site monitoring should be requested to undertake monitoring in respect of the tonnage of coal / fireclay extracted. Once received, these reports should be reconciled with the payments received to ensure the correct amounts have been received by the Council.	Medium	Development Management Manager	31 May 2011
22	It should be clarified with Scottish Coal whether there has been any extraction of fireclay and if so payment should be obtained.	Medium	Financial Services Manager	31 May 2011

APPENDIX OVERVIEW

Appendices	Details	Comments
Appendix 1	Letter and Plan from BRAJFC requesting funding	Letter from BRAJFC, dated 4 March 2008, requesting funding of 50% of estimated costs of £75,000
Appendix 2	Plan of Bonnyrigg Rose Social Club and BRAJFC site	Plan of Bonnyrigg Rose Social Club and BRAJFC site obtained by Council on 21 March 2011
Appendix 3	Minutes of Gourlaw Sub Committee and General Purpose Committee Meetings dated 7 October 2008	Minutes of Gourlaw and General Purpose Committee Meeting dated 7 October 2008 showing decision made in respect of the car park funding award
Appendix 4	Letter to BRAJFC approving grant award	Letter dated 3 April 2009 from Council to BRAJFC approving award of £37,500 for creation of a car parking area; subject to match funding of 50%
Appendix 5	Invoice from Dalhousie Properties for £55,200 (£48,000 plus £7,200 VAT)	Invoice dated 11 May 2009 from Dalhousie Properties to BRAJFC
Appendix 6	Letter to BRAJFC advising approval of payment for £27,600	Letter dated 30 June 2009 from Council to BRAJFC confirming that £27,600 will be sent in due course. Copy of payment request showing payee as BRAJFC
Appendix 7	Invoice from Dalhousie Properties for £32,609 (£28,356 plus £4,253 VAT)	Invoice dated 30 September 2009 from Dalhousie Properties to BRAJFC
Appendix 8	Letter to BRAJFC advising approval of payment for £9,900	Letter dated 14 January 2010 from Council to BRAJFC confirming that £9,900 will be sent in due course. Copy of payment request showing payee as BRAJFC
Appendix 9	Letter to BRAJFC re use of area for public car parking	Letter dated 24 June 2010 from Council to BRAJFC requesting when works will be completed and area made ready for use
Appendix 10	Letter from Bonnyrigg Rose Social Club	Letter from Bonnyrigg Rose Social Club dated 19 July 2010 stating that they should have been consulted on any developments
Appendix 11	Letter from Council to BRAJFC requesting additional information	Letter dated 14 December 2010 from Council to BRAJFC requesting minutes of any meetings and details of monies paid to Dalhousie Properties
Appendix 12	Quote and Bill of Quantities from Dalhousie Properties	Quote and Bill of Quantities from Dalhousie Properties dated 14 November 2008 provided by ex-president of BRAJFC and received by Council on 11 February 2011
Appendix 13	Invoices from Dalhousie Properties for £20,000 (£17,391 plus £2,609 VAT) and £3,000 (£2,609 plus £391 VAT)	Further set of invoices from Dalhousie Properties to BRAJFC dated 20 July 2009 and 15 October 2009 provided by ex-president of BRAJFC and received by Council on 11 February 2011
Appendix 14	Letter from BRAJFC – Acting Treasurer	Letter from Acting Treasurer of BRAJFC dated 14 February 2011 and received by Council on 15 February 2011
Appendix 15	BRAJFC Bank Statements	BRAJFC Bank Statements showing details of transactions relating to car park provided to Council on 15 February 2011
Appendix 16	Independent Surveyor's Report from Summers-Inman	Independent Surveyor's Report from Summers-Inman provided to Council on 8 April 2011
Appendix 17	Photographs of Bonnyrigg Rose car park	Photographs taken: 2003 and November 2010
Appendix 18	Funding Review	Summary overview of funding for project

APPENDIX 1



Bonnyrigg Rose Athletic J.F

President: James McHale

Mobile : [REDACTED]

4th March 2008

Mr Bob Aitch
Midlothian House
Buccleuch Street
Dalkeith

Dear Sir

I write on behalf of Bonnyrigg Rose Junior Football club to seek assistance from what I believe is called the Road Coal Fund. Bonnyrigg Rose Football Club is endeavoring to create a car parking area within their grounds to the rear buildings of Lothian Street and Dundas Street. The current car parking available to supporters has only a small number of spaces and is completely inadequate for the size of support that comes to Super league games. The car park entrance off Lothian Street is extremely narrow and hazardous and there have been several near misses to pedestrians. On street parking during several games has now become problematic to traffic flow in the area, namely that on Lothian Street to the point where we have had to seek assistance from both the Police to help with traffic control as well as assistance from Midlothian Council to have parking waiting restrictions placed in and around this entrance. Even with this cooperation from the Police and yourselves there have still been major problems in the area, particularly when large games have taken place. In addition there has been major problems with bin Lorries, recycle Lorries and delivery motors been unable to access the ground due to the narrow entrance causing congestion on this road.

It is the Committee's intention to remove the large wooden hut along with the wall which runs the length of this car park and to replace it with a fence some 10 meters inside the ground this allowing vehicle access from the more suitable road via Dundas Street. This would create over three times the parking spaces, alleviate all problems with entry for service vehicles and create a much safer pedestrian access to the area.

Bonnyrigg Rose Junior Football Club will not put any restrictions to this parking area other than on match days thus allowing any use to parking for the public.

~~The cost of removing the wall, demolishing the existing hut and erecting palacaid fencing as well as all other ground works etc are estimated at the cost of £75,000. We write to ask if Midlothian Council through the Coal Haulage Fund could contribute 50% of the cost.~~

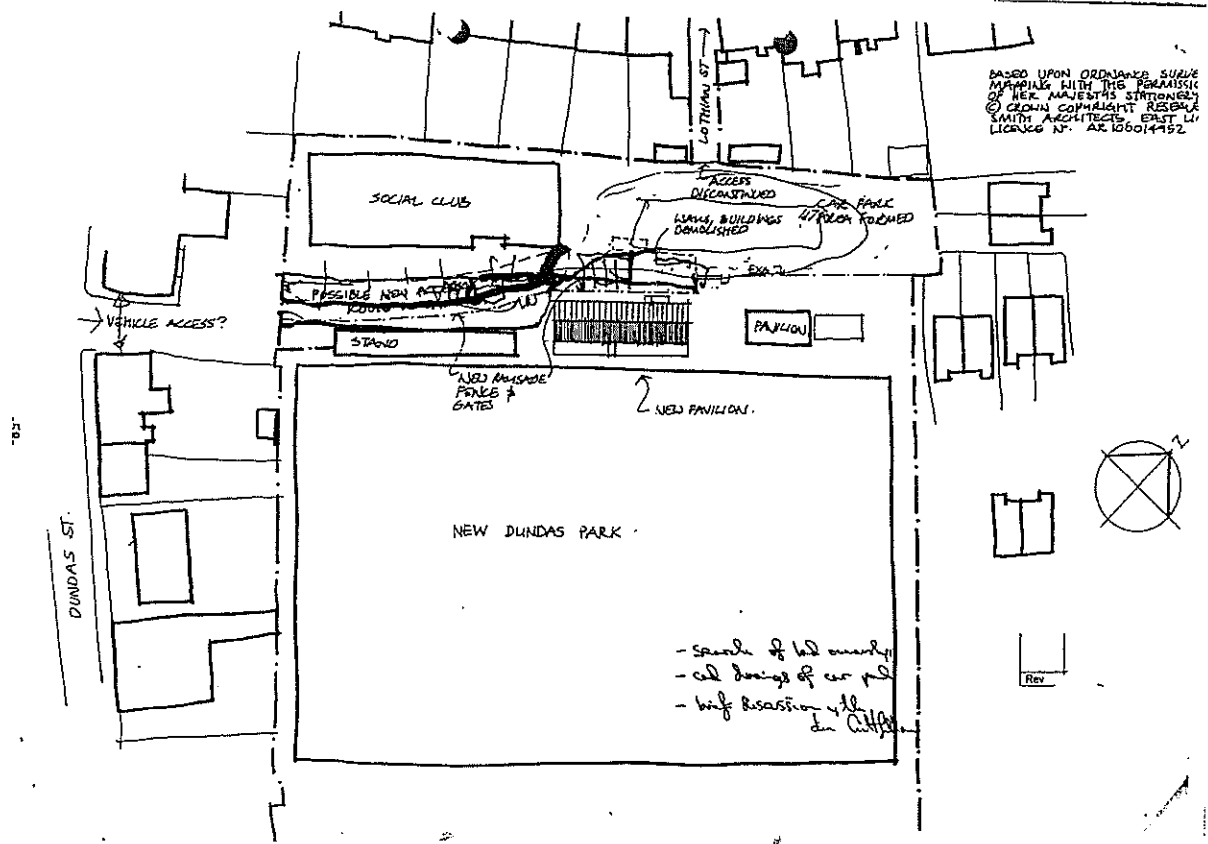
I have enclosed a copy of a sketch that we have in mind. Should you wish to discuss this further please do not hesitate to contact me.

Yours sincerely

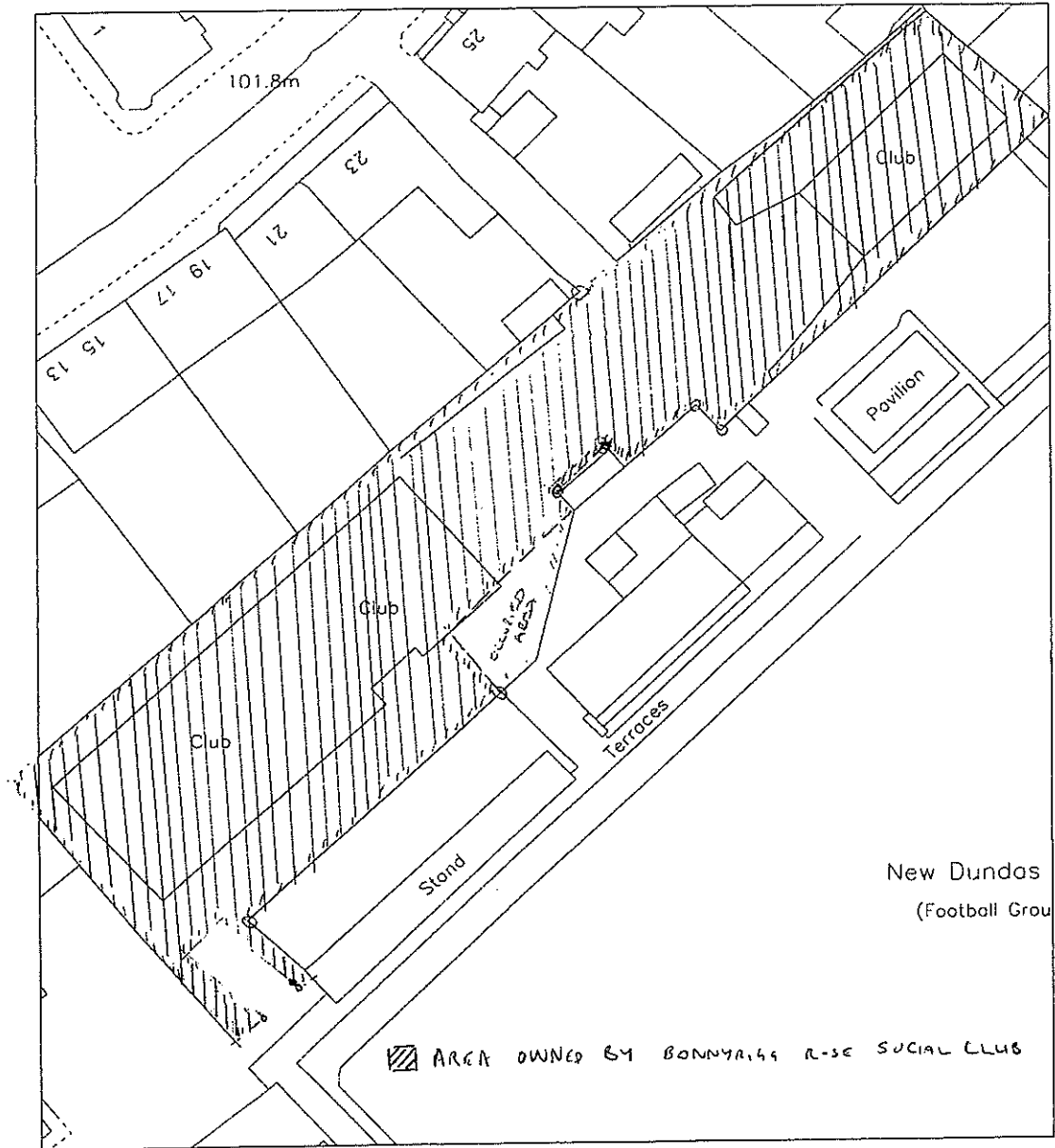

James McHale
President

CC Cllr J Aitchison

APPENDIX 1



APPENDIX 2



Midlothian

Corporate Resources
Midlothian House
40 Buccleuch Street
Dalkeith EH22 1DN

Plan Ref:

File Ref:

Scale:

Date:

Reproduced by permission of Ordnance Survey on behalf of HMRSO
Crown copyright and database right. All rights reserved
Ordnance Survey Licence Number 100023416

APPENDIX 3

5-113

APPENDIX

(relative to paragraph 4)

MINUTES of MEETING of the GOURLAW SUB-COMMITTEE held in the Committee Room, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 7 October 2008 at 12.00 noon.

Present:- Councillors C Beattie (Chair), Aitchison, Imrie, Milligan, Russell and Thompson.

- | | |
|--------------------------|--|
| Minutes of Meeting. | 1. The Sub Committee approved the Minutes of Meeting of 13 April 2006. |
| Declaration of Interest. | 2. Councillor Milligan declared an interest in Item No (b) (xii) and, later, left the meeting during discussion of this matter. |
| Position Statement. | 3. There was submitted report, dated 27 September 2008, by the Director, Corporate Services, confirming <i>inter alia</i> :-

(a) that the Council had agreed to extend the terms of remit of the Sub-Committee to include the Shewington Farm Opencast Development; and

(b) activities since the last meeting of the Sub-Committee as regards additional information about existing proposed projects and other proposals. |

Appended to the report were:-

- (i) report, dated 6 April 2006, by the Director, Corporate Services which had been submitted to the Sub-Committee on 13 April 2006, concerning submissions for funding;
- (ii) report, dated 11 December 2007, by the Director, Corporate Services, which had been submitted to the Council on 18 December 2007, confirming the coal haulage route;
- (iii) report, dated 19 November 2007, by the Director, Corporate Services, which had been submitted to the Council on 27 November 2007, concerning the commencement of coaling at Shewington Farm;
- (iv) letter from Thornton Rose Riding for the Disabled Association, dated 29 September 2006, concerning their submission; and further information provided by the Land Resources Manager;

APPENDIX 3

5-114

- (v) letter, dated 28 April 2006, to Poltonhall and District Community Council confirming the guidance given to the Sub-Committee about their submissions;
- (vi) lists, dated 27 March and 16 October 2007, of additional proposed projects submitted by Poltonhall and District Community Council;
- (vii) correspondence with Rosslynlee Trout Fishery submitting, then withdrawing, a request for funding;
- (viii) letter, dated 3 December 2007, from Rosewell and District Community Council, regarding their submission;
- (ix) correspondence with Eskbank Amenity Society submitting a request in respect of an area that did not meet the funding criteria;
- (x) letter from Poltonhall and District Community Council, dated 21 January 2008, requesting funding for a Community Notice Board;
- (xi) letter, dated 30 January 2008, from St Matthew's Primary School Parents' Council requesting that funds be committed to the upgrading of the school playground;
- (xii) letter, dated 4 March 2008, from Bonnyrigg Rose Junior Football Club requesting a contribution towards the cost of providing a car park;
- (xiii) letter, dated 27 June 2008, from the Land Resources Manager requesting that consideration be given to the disbursement of funds to enable the resurfacing of the walkway from Dalhousie Chesters to the crossing with the A6094;
- (xiv) request for funding towards the cost of maintaining Bonnyrigg Parish Church;
- (xv) a summary of the requests;
- (xvi) report by the Land Resources Manager about the proposal by Thornton Rose Riding for the Disabled Association;
- (xvii) reports by the Director, Commercial Services, dated 18 January 2007, concerning the cost of works in the Rosewell area and Poltonhall; and

APPENDIX 3

5-115

(xviii) maps showing the sites of the opencast extraction at Gourlaw, Newbigging and Shewington.

Consideration of
Disbursements.

4. After discussion, the Sub-Committee agreed:-

- (a) to note the report;
- (b) to recommend that disbursements be made as shown in the Annex hereto; and
- (c) otherwise, that the requests be dealt with, also as described in the Annex hereto.

The meeting terminated at 12.50 pm.

APPENDIX 3

5-107

General Purposes Committee
Tuesday 4 November 2008
Item No 4

MINUTES of MEETING of the MIDLOTHIAN COUNCIL

GENERAL PURPOSES COMMITTEE held in the Council

Chambers, Midlothian House, Buccleuch Street, Dalkeith on

Tuesday 7 October 2008 at 2.00 pm.

Present:- Councillors C Beattie (Chair), Aitchison, L Beattie, Bennett, Boyes, Chalmers, Constable, Milligan, Moffat, Montgomery, Russell, Statham, Thacker, Thompson and Wilson.

Apologies for Absence:- Councillors Brown and Muirhead.

- | | |
|---|--|
| Order of Business. | 1. The Chair ruled as urgent reports (a) arising from a meeting of the Gourlaw Sub-Committee held earlier than day; and (b) concerning the public procession which took place in Penicuik on 28 June 2008, as described in paragraphs 4 and 6, respectively. |
| Declaration of Interest. | 2. Councillor Milligan declared an interest in relation to Item 4 below, as described in the relative Minutes of Meeting. |
| Minutes of Meeting. | 3. On a motion by Councillor Aitchison, seconded by Councillor Milligan, the Minutes of Meeting held on 2 September 2008 were approved. |
| Gourlaw Sub-Committee Minutes. | 4. There were submitted Minutes of Meeting of the Gourlaw Sub-Committee held earlier that day, as shown in the Appendix hereto. |
| | Arising therefrom, the Committee approved the relative recommendations, subject to the approval of Scottish Coal. |
| Civic Government (Scotland) Act 1982 – (a) Procedure for Disposal of Applications for Licences. | 5. (a) The Committee noted report, dated 29 September 2008, by the Director, Corporate Services, concerning the procedure for disposing of applications for licences under the Civic Government (Scotland) Act 1982. |

APPENDIX 3

5-108

(b) House in Multiple Occupation Licence – Application for Renewal of Licence and Material Change of Circumstance – Inveravon House Loanhead.

(b) With reference to paragraph 2(b) of the Minutes of 4 December 2007, there was submitted report, dated 22 September 2008, by the Director, Corporate Services, concerning applications by Inveravon House Limited and Mrs D Potter, 1 The Wynd, Dalgety Bay, Fife:-

- (i) for the renewal of the House in Multiple Occupation Licence of Inveravon House, 9 Inveravon Road, Loanhead; and
- (ii) for material change of circumstance to (1) make Mr J Croan-Bee the responsible manager; and (2) increase the maximum number of residents from 18 to 24 persons.

Having heard the Principal Officer, Public Health and the Applicant, in the course of which the Applicant undertook annually to exhibit the gas safety certificate for the premises, the Committee agreed that the application be granted for a period of one year, on the standard conditions and those recommended by the consulting officers, subject to a report back should there be any deterioration in the situation and, in connection with which, the Members requested that the conduct of the Licence-holder be monitored very carefully for the duration of the licence.

(c) Taxi Stances – Eskbank Road, Dalkeith

(c) With reference to paragraph 3(e) of the Minutes of 5 August 2008, there was submitted report, dated 25 September 2008, by the Director, Corporate Services, confirming that public notice had been given of the proposal that a taxi stance be appointed in Eskbank Road, Dalkeith for eight taxis; and no objections had been received.

Arising therefrom, Councillor Russell, seconded by Councillor Chalmers, moved that the stance be appointed for eight taxis; and the commencement date be remitted to the Director, Corporate Services, in consultation with the Chair.

As an amendment, Councillor Boyes, seconded by Councillor L Beattie, moved that consideration of the matter be continued pending receipt of further information about the commencement date of the construction of the commercial development in the adjacent property.

On a vote being taken, there voted seven for the motion and eight for the amendment which was declared carried and became the finding of the meeting.

APPENDIX 3

5-109

(d) Licensing of
Knife Dealers –
Consultation.

(d) With reference to paragraph 5 of the Minutes of 24 August 2005, there was submitted report, dated 29 September 2008, by the Director, Corporate Services, concerning a consultation paper issued by the Scottish Government, relating to a proposal to introduce a scheme of licensing (i) to regulate the sale of swords and non-domestic knives with effect from 1 September 2009, with applications being made to local authorities after 1 March 2009; and (ii) to impose mandatory conditions setting out what records had to be kept and how articles had to be stored and displayed, including reference to the identity and proof of age and recording what article was sold to the customer; and similar provisions for the sale of swords.

After discussion, the Committee agreed that a response be submitted on the basis of the Officers' comments and remitted, to the Director, Corporate Services, in consultation with the Chair, the preparation of a response.

Exclusion of
Members of the
Public.

6. In view of the nature of the business to be transacted, the Committee agreed that the public be excluded from the meeting during discussion of the undernoted items, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraphs 3, 4 and 12 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973:-

- (a) (i) Private Hire Car Driver's Licence – Application considered at last meeting – Withdrawal of Objection Noted; and
- (ii) Private Hire Car Driver's Licence – Application – Granted;
- (b) Taxi Licence – Application – Refused;
- (c) Taxis – Survey of Demand in Midlothian – Approved in principle;
- (d) Training Session – Report – noted; and
- (e) Public Processions, Penicuik, 28 June 2008 – Noted that an appeal had been submitted and agreed to defend decision.

Thereafter, the Committee agreed to proceed as detailed in the Addendum hereto.

The meeting terminated at 3.34 pm.

APPENDIX 3

5-113

APPENDIX

(relative to paragraph 4)

MINUTES of MEETING of the GOURLAW SUB-COMMITTEE held in the Committee Room, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 7 October 2008 at 12.00 noon.

Present:- Councillors C Beattie (Chair), Aitchison, Imrie, Milligan, Russell and Thompson.

- | | |
|--------------------------|--|
| Minutes of Meeting. | 1. The Sub Committee approved the Minutes of Meeting of 13 April 2006. |
| Declaration of Interest. | 2. Councillor Milligan declared an interest in Item No (b) (xii) and, later, left the meeting during discussion of this matter. |
| Position Statement. | 3. There was submitted report, dated 27 September 2008, by the Director, Corporate Services, confirming <i>inter alia</i> :-

(a) that the Council had agreed to extend the terms of remit of the Sub-Committee to include the Shewington Farm Opencast Development; and

(b) activities since the last meeting of the Sub-Committee as regards additional information about existing proposed projects and other proposals. |

Appended to the report were:-

- (i) report, dated 6 April 2006, by the Director, Corporate Services which had been submitted to the Sub-Committee on 13 April 2006, concerning submissions for funding;
- (ii) report, dated 11 December 2007, by the Director, Corporate Services, which had been submitted to the Council on 18 December 2007, confirming the coal haulage route;
- (iii) report, dated 19 November 2007, by the Director, Corporate Services, which had been submitted to the Council on 27 November 2007, concerning the commencement of coaling at Shewington Farm;
- (iv) letter from Thornton Rose Riding for the Disabled Association, dated 29 September 2006, concerning their submission; and further information provided by the Land Resources Manager;

APPENDIX 3

5-114

- (v) letter, dated 28 April 2006, to Poltonhall and District Community Council confirming the guidance given to the Sub-Committee about their submissions;
- (vi) lists, dated 27 March and 16 October 2007, of additional proposed projects submitted by Poltonhall and District Community Council;
- (vii) correspondence with Rosslynlee Trout Fishery submitting, then withdrawing, a request for funding;
- (viii) letter, dated 3 December 2007, from Rosewell and District Community Council, regarding their submission;
- (ix) correspondence with Eskbank Amenity Society submitting a request in respect of an area that did not meet the funding criteria;
- (x) letter from Poltonhall and District Community Council, dated 21 January 2008, requesting funding for a Community Notice Board;
- (xi) letter, dated 30 January 2008, from St Matthew's Primary School Parents' Council requesting that funds be committed to the upgrading of the school playground;
- (xii) letter, dated 4 March 2008, from Bonnyrigg Rose Junior Football Club requesting a contribution towards the cost of providing a car park;
- (xiii) letter, dated 27 June 2008, from the Land Resources Manager requesting that consideration be given to the disbursement of funds to enable the resurfacing of the walkway from Dalhousie Chesters to the crossing with the A6094;
- (xiv) request for funding towards the cost of maintaining Bonnyrigg Parish Church;
- (xv) a summary of the requests;
- (xvi) report by the Land Resources Manager about the proposal by Thornton Rose Riding for the Disabled Association;
- (xvii) reports by the Director, Commercial Services, dated 18 January 2007, concerning the cost of works in the Rosewell area and Poltonhall; and

APPENDIX 3

5-115

(xviii) maps showing the sites of the opencast extraction at Gourlaw, Newbigging and Shewington.

Consideration of
Disbursements.

4. After discussion, the Sub-Committee agreed:-

- (a) to note the report;
- (b) to recommend that disbursements be made as shown in the **Annex** hereto; and
- (c) otherwise, that the requests be dealt with, also as described in the **Annex** hereto.

The meeting terminated at 12.50 pm.

APPENDIX 3

5-117

Annex (relative to paragraph 4 of Appendix)

Gourlaw and Newbigging Open Cast Funds Summary of Requests for Assistance and Decision

Organisation	Request	Decision
Poltonhall & District Community Council 13.01.06.	1 Installation of Pelican Crossing on A6094 at Cockpen Estate.	Declined.
	2 Installation of (a) lighting columns and (b) highlighted	(a) Declined; and (b) Continued.
	3 Upgrading of pedestrian and disabled access to Community Hall.	Declined.
	4 Upgrading of pavement opposite shops at Hopefield Park.	No Action as work had already been completed.
	5 Provision of seating for elderly and young mothers with children in Hopefield Park.	Declined.
	6 Environmental upgrading of grass verge between Lasswade Rugby Club and Polton Avenue Road.	Declined.
	7 Resurfacing/reinstatement of footpaths leading from A6094 via playing fields to Hawthornden School, Poltonhall Sports Pavilion and Housing.	No Action as work had already been carried out.
10.03.06.	Lighting along stretch of A6094.	No Action (see above).
Thornton Rose Riding for the Disabled Association 29.09.06.	Upgrading of path.	Declined.
Poltonhall & District Community Council 27.03.07	1 Installation of road speed indicator and/or flashing 30 mph sign on A6094 at entry from west into built-up area at Cockpen Estate.	No Action (see above).

APPENDIX 3

5-118

	2	Installation of ribbed speed calming road layout on A6094 at entry from west into built up area at Cockpen Estate.	Continued.
	3	Pelican Crossing on A6094 at Cockpen Estate.	No Action (see above).
	4	Street lighting improvements at Dalhousie Place.	Declined.
	5	Upgrade the 30mph speed limit sign at the approach to the Cameron Crescent and Polton Road West junction with a Flashing 30 sign.	Declined.
	6	Pedestrian safety: pathway resurfacing on roads off Polton Road West.	No Action.
	7	Infill of pot holes and resurfacing at Polton Bank and roads off, primarily DeQuincey Road, Methven Terrace, McLean Place and Ramsay Terrace.	Declined.
	8	Footpath lighting improvements at Cameron Crescent.	Continued.
	9	Community Hall: Upgrading of disabled access to meet current legislation.	Declined (see above).
	10	Repairs and upgrading of Hopefield School fence alongside A6094.	Continued.
	11	Footpath improvements from Hawthornden School to Cameron Crescent and new houses.	Continued.
16.10.07.	1	New roundabout at Cameron Crescent/Polton Road West junction.	Declined.
	2	Provision of more/better footpaths within the Cameron Crescent total housing area.	Continued.
	3	New off street parking areas between Bus terminus and new houses.	Continued.

APPENDIX 3

5-119

Rosewell & District Community Council 3.12.07.	1 Landscaping at the entrances to the village, especially at Gorton Road, and floral displays at both entrances to Carnethie Street.	Continued.
	2 CCTV camera at the entrance to Rosewell Park at Carnethie Street/Gorton Road to improve security.	Declined.
	3 Flashing speed indicator signs in the village.	Declined.
Eskbank Amenity Society 30.10.07.	Road Improvements / Safety measures on a section of the road leading to the Bypass.	No Action - outwith catchment area.
Poltonhall and District Community Council 21.01.08.	Notice Board provision at Bonnyrigg Library at a cost of £625 + VAT.	Agreed to recommend disbursement of £750.00
St Matthews Primary School 31.01.08.	Improvement of surface of Playground.	No Action as work had been carried out already.
Bonnyrigg Rose JFC 4.03.08.	Contribution (£37,500 ie 50%) towards cost of Car Park Provision.	Agreed to recommend £25,000 as maximum contribution subject to car park being made available for public use.
Land Services.	Contribution (£50,000 ie 50%) to cost of upgrading surface of Walkway between Dalhousie Chesters and the crossing of the A6094.	Agreed to recommend £25,000 subject to receipt of match funding (50%).
Bonnyrigg Parish Church 21.07.08.	Maintenance of the fabric of the Church.	Agreed to recommend £10,000 subject to receipt of match funding.

APPENDIX 4

Law and Administration Corporate Services
Midlothian Council
Midlothian House
Buccleuch Street
Dalkeith
EH22 1DN

Director
Ian Jackson

Midlothian

3 April 2009

Bonnyrigg Rose Athletic J. F. C.
President
James McHale

Dear Mr McHale

GOURLAW/SHEWINGTON/NEWBIGGING FUNDS

Further to previous correspondence in the above regard, I write to confirm that approval has been given to the disbursement of a maximum sum of £37,500 in respect of the creation of a car parking area at the rear of Lothian Street/Dundas Street, on the basis that you will be able to attract match funding of 50%.

I shall be grateful, therefore, if you will contact Mr Attack when appropriate in order to arrange the release of funds.

Consideration is being given to press coverage about which further information will follow.

If you wish to discuss the matter, please contact Mr Attack (attackb@midlothian.gov.uk)

Yours sincerely

Council Secretary

Your Ref:

Our Ref:

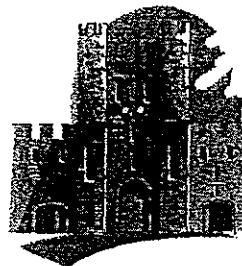
(RGA/RW)

Tel 0131 271 3161
Fax 0131 271 3050
Minicom 0131 271 3291
DX 540568 (Receipt only)
Legal Post LP - DALKEITH
www.midlothian.gov.uk

APPENDIX 5

Dalhousie Properties Limited
Dalhousie Business Park
Carrington Road
Cockpen
Bonnyrigg
Midlothian
EH19 3HY

Tel: 0131 663 7776
Fax: 0131 663 7704



INVOICE

11 May 2009

SCOTT McFARLANE
Bonnyrigg Rose
New Dundas Park
Bonnyrigg
EH19

To carry out the following enabling works so as to allow construction of new car park facilities.

Demolish old buildings including timber hut, old brick toilets and brick shelter with concrete roof.

Demolish old perimeter wall to allow formation of new access road.

Clear site using lorries and 360° excavator and leave footplate ready to receive new finishing coating to form new road and car park.

Erect new palisade to new perimeter lines.

Works Value	£48,000.00
+ VAT @ 15%	<u>£ 7,200.00</u>
	<u>£55,200.00</u>

Company Registration No. SC233347
VAT Registration No. 847 5509 94

APPENDIX 6

Law and Administration Corporate Services
Midlothian Council
Midlothian House
Buccleuch Street
Dalkeith
EH22 1DN
Director
Ian Jackson

Midlothian

30 June 2009

Bonnyrigg Rose Athletic J.F.C.
President
James McHale

[REDACTED]

Dear Sir

NEWBIGGING OPENCAST FUND - DISBURSEMENT

I acknowledge receipt of copy invoice relating to the clearance of the site and erection of perimeter fencing in the amount of £55,200.

I confirm that a remittance to the value of half of that amount will be sent to you in due course (£27,600).

I shall be grateful if you will provide copies of further invoices in respect of the surfacing, etc works to facilitate release of the balance due.

If you wish to discuss this matter please contact Mr Attack, 0131 271 3161
(attackb@midlothian.gov.uk)

Yours faithfully

Council Secretary

[REDACTED]

Telephone Rosemary Walsh
Your Ref:
Our Ref: G.10.15

Tel 0131 271 3157
Fax 0131 271 3050
Legal Post LP4 Dalkeith
www.midlothian.gov.uk

APPENDIX 6

MIDLOTHIAN COUNCIL

Request for Payment by Cheque

(THIS FORM IS ONLY TO BE USED IN INSTANCES WHERE THERE IS NO VOUCHER AVAILABLE TO SUPPORT PAYMENT)

PART A: Payee Details

Name: Bonnings Rose Athletic F.C.

Address: President James McHale
[REDACTED]
[REDACTED]

Postcode: [REDACTED]

PART B: Payment Details

Disbursement - Newbigging Openair Fund.

PART C: Remittance Advice Narrative

clearance of site & erection of perimeter fencing

PART D: Financial Details

General Ledger Code: <u>9630</u> / <u>84.811</u>	Amount	£ 27,600.00
General Ledger Code: <u>/</u> <u>/</u>	Amount	£
General Ledger Code: <u>/</u> <u>/</u>	Amount	£
General Ledger Code: <u>/</u> <u>/</u>	Amount	£
General Ledger Code: <u>/</u> <u>/</u>	Amount	£
VAT Exclusive Total		£ 27,600.00
VAT Amount		£
VAT Registration Number: <u>[REDACTED]</u>		
PAYMENT AMOUNT		£ 27,600.00

PART E: Authorisation

Authorised By: [REDACTED]

Designation: Council Secretary Date: 30.6.09

PART F:

Date	Reg	By	Reg	Ref	Checked
30.6.09		<u>RW</u>	175593		By: <u>AM</u> 1/7/09

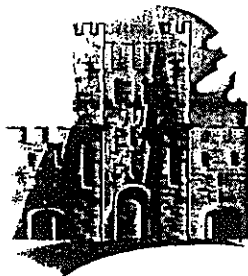
PLS SINGLE

FRAG 02/09

APPENDIX 7

Dalhousie Properties Limited
Dalhousie Business Park
Carrington Road
Cockpen
Bonnyrigg
Midlothian
EH19 3HY

Tel: 0131 663 7776
Fax: 0131 663 7704



INVOICE

30 September 2009

James McHale
Bonnyrigg Rose
New Dundas Park
Bonnyrigg
EH19



To carry out the following construction works to allow the completion of new car park facilities.

To strip out existing street lighting, terminate as required then install new car park lighting

To import hardcore base material, spread and roll to suitable levels then import tar finishing coat.

To knock down existing wall between Calderwood and BRFC to allow formation of new vehicular ramp.

Finish off perimeter fencing to secure site.

Supply and erection of a removable gate

Works Value	£28,356.00
+ VAT @ 15%	<u>£ 4,253.40</u>
	<u>£32,609.40</u>

Company Registration No. SC233347
VAT Registration No. 847 5509 94

APPENDIX 8

Law and Administration Corporate Services
Midlothian Council
Midlothian House
Buccleuch Street
Dalkeith
EH22 1DN

Director
Ian Jackson

Midlothian

14 January 2010

Bonnyrigg Rose Athletic J. F. C.
President
James McHale



Dear Mr McHale

GOURLAW/SHEWINGTON/NEWBIGGING FUNDS

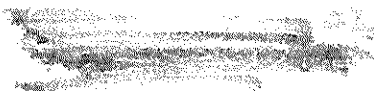
I refer to my previous correspondence dated 3 April and 30 June 2009 in respect of the creation of a car parking area at the rear of Lothian Street/Dundas Street

I confirm that a remittance to the value of £9,900.00 will be sent to you in due course.

If you wish to discuss the matter, please contact Mr Atack (atackb@midlothian.gov.uk)

Yours sincerely

Council Secretary



Your Ref:

Our Ref:

(RGA/RW)

Tel 0131 271 3161
Fax 0131 271 3050
Minicom 0131 271 3291
DX 540568 (Receipt only)
Legal Post LP - DALKEITH
www.midlothian.gov.uk

APPENDIX 8

MIDLOTHIAN COUNCIL

Request for Payment by Cheque

(THIS FORM IS ONLY TO BE USED IN INSTANCES WHERE THERE IS NO VOUCHER AVAILABLE TO SUPPORT PAYMENT)

PART A: Payee Details	
Name:	Bonnyrigg Rose Athletic J.C.
Address:	James McHale
	[REDACTED]
Postcode:	[REDACTED]

PART B: Payment Details
Final Payment for Construction Work

PART C: Remittance Advice Narrative
Disbursement

PART D: Financial Details	
General Ledger Code: 9633 / 84 .84 .	Amount £ 9,900.00
General Ledger Code: / . . .	Amount £
General Ledger Code: / . . .	Amount £
General Ledger Code: / . . .	Amount £
General Ledger Code: / . . .	Amount £
VAT Exclusive Total	£ 9,900.00
VAT Amount	£
VAT Registration Number:	
	PAYMENT AMOUNT £ 9,900.00

PART E: Authorisation	
Authorised By:	[REDACTED]
Designation:	Council Secretary
Date:	14.1.10

PART F:			
Date	Reg	Reg	Checked
Req: 15.1.10	By: RW	Ref: 1218619	By:

APPENDIX 9

Law and Administration Corporate Services
Midlothian Council
Midlothian House
Buccleuch Street
Dalkeith
EH22 1DJ

Director
Ian Jackson

Midlothian

24 June 2010

Mr James McHale
Bonnyrigg Rose
New Dundas Park
Bonnyrigg
MIDLOTHIAN

Dear Mr McHale

Shewington Opencast Coal Fund Disbursement Towards Cost of Providing Car Park

I refer to previous correspondence in the above regard.

~~Preparations are being made for discussions which are about to take place concerning the use of the area for public car parking on non-match days.~~

~~Can you please confirm when the necessary works will be completed and the area made ready for use.~~

If you wish to discuss this matter, please contact Bob Attack (Email: attackb@midlothian.gov.uk) (Tel: 0131 271 3161).

Yours sincerely

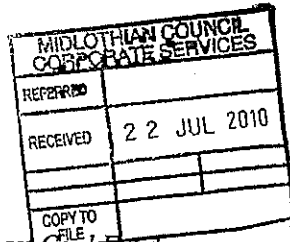
Jim Clifford
Council Secretary

Your Ref:

Our Ref: C G CM5.6(a) (RGA/GL)

Tel 0131 271 3161
Fax 0131 271 3050
Minicom 0131 271 3291
DX 540568 (Receipt only)
Legal Post LP - DALKEITH
www.midlothian.gov.uk

APPENDIX 10



19/7/10

Dear Mr Clifford,

Shewington Opencast Coal Fund
Disbursement Towards Cost of Providing Car Park

Regarding our telephone conversation on 2/7/10. Please find enclosed the letter from yourself returned as discussed.

I can also confirm that Mr James McHale is no longer associated with Bonnyrigg Rose Social Club.

Bonnyrigg Rose Social Club were never consulted on any developments regarding the Car Park. I have checked our Title Deeds and it seems we should have been consulted on any developments to any part of our land.

I would be obliged if you can contact myself regarding any future plans for meetings regarding this matter. My mobile telephone number is

I have discussed this with the Chairman of Bonnyrigg Rose Football Club, Mr Charles Kirkwood and he has no knowledge of any developments either. He will also be happy to attend any further meetings you may have planned.

Your Sincerely

Mr Andy Hamilton
Chairman of Bonnyrigg Rose Charitable Trust

APPENDIX 11

Corporate Resources
Midlothian Council
Midlothian House
Buccleuch Street,
Dalkeith
EH22 1DN

Director
John Blair



Midlothian

Tel: 0131 271 3102

14 December 2010

Private & Confidential

Mr C Kirkwood
Chairman, Bonnyrigg Rose Athletic JFC



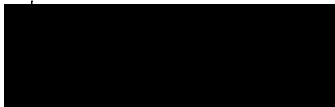
Dear Mr Kirkwood,

Further to your meeting on 11 November 2010 with Elaine Greaves, Senior Auditor, please can you advise whether the Bonnyrigg Rose Athletic JFC Committee approved the decision to approach the Council for a grant to undertake the proposed works to the car park, as per James' McHale's letter of 4 March 2008? I would also be grateful if you could provide me with all Committee Meeting Minutes detailing any discussions / decisions made relating to the proposed works and / or the seeking of grant monies from the Council.

Please can you also provide details of all transactions / monies paid from Bonnyrigg Rose Athletic JFC to Dalhousie Properties Ltd / James McHale in respect of the works relating to the car park grant? In addition, I would be grateful if you could clarify the amount paid by Bonnyrigg Rose Athletic JFC towards the total invoices received from Dalhousie Properties Ltd for £87,809.40?

I look forward to hearing from you in due course however if you require further information in the interim, please contact my colleague Elaine Greaves on 271 3285.

Yours sincerely



John Blair
Director, Corporate Resources

cc: Elaine Greaves, Senior Auditor



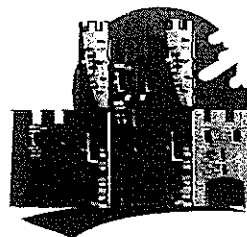
APPENDIX 12

Dalhousie Properties Limited
Dalhousie Business Park
Carrington Road
Cockpen
Bonnyrigg
Midlothian
EH19 3HY

Tel: 0131-663-7776
Fax: 0131-663-7704

14 November 2008


Bonnyrigg Rose FC
New Dundas Park
Bonnyrigg
Midlothian
EH19 3AE



BONNYRIGG ROSE CAR PARK UPGRADE QUOTATION

Please find attached our quotation for the works to be carried out at the above location

Regards


*Hugh Hutton
Contracts Manager*

Company Registration No. SC233347
VAT Registration no. 847 5509 94

APPENDIX 12

BONNYRIGG ROSE FC CAR PARK UPGRADE

Item	Description	Qty	Unit	Rate (£)	Total (£)
	Works to be carried out at the above premises. We recommend that a site visit is undertaken to evaluate the extent and nature of the site.				
1	To demolish existing wooden building, remove off-site to recognised disposal facility	1	no.		£ 4,350.00
2	To demolish existing brick foundations and remove off-site to recognised disposal facility	1	no.		£ 1,565.00
3	Cut-off and make safe all existing services				
a.	Gas	1	no.		£ 300.00
b.	Water	1	no.		£ 140.00
c.	Electricity	1	no.		£ 280.00
4	Remove soil from North West Stand and transport by dumper truck to South East banking, re-grade to suit	1	no.		£ 3,160.00
5	Demolish existing concrete steps, remove debris off-site to recognised disposal facility ready to receive new steps	1	no.		£ 1,765.00
6	Remove existing lighting pylons and make safe prior to main demolition	4	no.	255	£ 1,020.00
7	Install new pylon ducting ready to receive new lighting	4	no.	70	£ 280.00
8	Demolish existing perimeter wall and spread over area where soil removed from rear of North West Stand then vibrate and compact as required	1	no.		£ 3,800.00
9	Import hardcore and install to suitable level for tar finishing then vibrate and compact as required(provisional quantities)	200	m ²		£ 5,936.00

APPENDIX 12

10	Import tar shavings to grade and level car-park then vibrate and compact as required	400	m³	16.96	£ 6,784.00
11	Knock down existing brick wall and remove metal gate then fill in excavations at North West entrance	1	no.		£ 800.00
12	Form new ramp with hardcore then compact and vibrate as required at North West entrance	1	no.		£ 2,400.00
13	Form tar ramp at North West entrance	50	m²	44	£ 2,175.00
14	Excavate new strip foundations then fill with 7 kn concrete (8 no.)	7	m³	183.50	£ 1,284.50
15	Remove excess fill to suitable to disposal facility	7	m³	19.50	£ 136.50
16	Whack all existing loose soil and hardcore ready to receive shutters and concrete	320	m³	3.56	£ 1,139.20
17	Supply and erect shutters to form replacement steps (Site measure required)	24	m³	188.50	£ 4,524.00
18	Supply and install 7 kn concrete to new formwork for new steps	24	m³	227.00	£ 5,448.00
19	Strip formwork no sooner than 1 week after pour	24	m³	34.80	£ 835.20
20	Remove existing main gates and stanchions and dispose off using recognised disposal facility	1	no.	450.00	£ 450.00
21	Supply and install 4m high x 350 x 250 mild steel box column stanchions inside 7 kn concrete pockets 600x600x600mm	2	no.	560.00	£ 1,120.00
22	Supply and install 4m wide x 3m high palasade gates	2	no.	496.00	£ 992.00
23	Supply and install 3m high palasade fence, stanchions erected in 300 x 300 x 600 concrete pockets	36	lm	96.00	£ 3,456.00
24	Supply and install 2.4m high palasade fence, stanchions erected in 300 x 300 x 600 concrete pockets	38	lm	78.50	£ 2,983.00
25	Supply and install 2.4 high x 1.2 wide palasade pass-gate	1	no.	360.00	£ 360.00

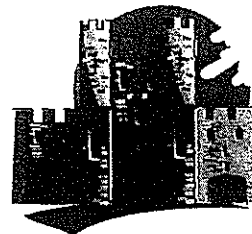
APPENDIX 12

26	Remove all containers from car park, store elsewhere then return after works completed	3	no.	160.00	£ 480.00
27	Erect 2 no. lighting pylons as previous and connect to existing power supply	4	no.	698.00	£ 2,792.00
28	Replace security lights on BRSC building with new sodium pir waterproof lights	6	no.	125.00	£ 750.00
29	Erect temporary security fence for duration of contract	100	lm	12.50	£ 1,250.00
30	Supply all plant needed to carry out works (please describe)				INCLUDED
31	On-site prelims	4	weeks	350.00	£ 1,400.00
32	Clear away all miscellaneous debris on completion	2	skips	180.00	£ 360.00
					£ 64,515.20
+ VAT					<u>£11,290.16</u>
TOTAL					<u><u>£75,805.36</u></u>

APPENDIX 13

Dalhousie Properties Limited
Dalhousie Business Park
Carrington Road
Cockpen
Bonnyrigg
Midlothian
EH19 3HY

Tel: 0131-663-7776
Fax: 0131-663-7704



INVOICE

20 July 2009

Bonnyrigg Rose Football Club
New Dundas Park
Bonnyrigg
Midlothian
EH19 3AE

CAR PARK REFURBISHMENT – INTERIM PAYMENT (NO. 1)

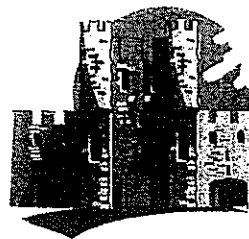
To carry out works at the above as per our quotation	£17,391.30
+ VAT @ 17.5%	£ 2,608.70
	<u>£20,000.00</u>

Company Registration No. SC233347
VAT Registration no. 847 5509 94

APPENDIX 13

Dalhousie Properties Limited
Dalhousie Business Park
Carrington Road
Cockpen
Bonnyrigg
Midlothian
EH19 3HY

Tel: 0131-663-7776
Fax: 0131-663-7704



INVOICE

15 October 2009

Bonnyrigg Rose Football Club
New Dundas Park
Bonnyrigg
Midlothian
EH19 3AE

CAR PARK REFURBISHMENT – INTERIM PAYMENT (NO. 2 FINAL)

To carry out works at the above as per our quotation	£2,608.70
+ VAT @ 17.5%	<u>£ 391.30</u>
	<u>£3,000.00</u>

Company Registration No. SC233347
VAT Registration no. 847 5509 94

APPENDIX 14



BONNYRIGG ROSE ATHLETIC F.C.

President: Charlie Kirkwood

Secretary: Bobby Dickson

February 14, 2011

Elaine Greaves
Corporate Resources
Midlothian Council
Buccleuch Street
DALKEITH
EH22 1 DN

Dear Elaine,

Please find enclosed copies of bank statements as per request received from Mr John Blair in his letter of February 7th and our phone conversation of February 11th.

I can find traceable records from these statements that show the club paid £23000 to Jim McHale/Dalhousie Properties direct from the bank a/c. However, as I stated previously on the phone this is the absolute minimum that could have been paid as the club dealt almost exclusively on a cash basis at the time, so between sponsorship monies etc. it could have been more or costs could have been covered by Mr McHale himself in his role as chairman and main sponsor.

Please don't hesitate to contact me either by letter to [REDACTED] or on my mobile [REDACTED] if I can be of any further assistance.

Best Regards,

[REDACTED]
Brendan Parkinson ACMA
Acting Treasurer, Bonnyrigg Rose FC

Bonnyrigg Rose Athletic F.C. New Dundas Park, Bonnyrigg, Midlothian EH19 3AE

[REDACTED]

APPENDIX 15



RBS
The Royal Bank of Scotland

Figure 6

01120
831017
00028
01

BIC RBOS GB 2L
IDAN GB86 RBOS 8316 1700 2363 18

-153-

APPENDIX 15

Sortcode
Statement of
Account for

83-1617 Account No [REDACTED]
BONNYRIGG ROSE ATHLETIC FC

Page 29



Bonnyrigg Branch
6 High Street
Bonnyrigg
EH19 2AA

MR JIM MCHALE
BONNYRIGG ROSE ATHLETIC FC
10 DUNDAS PARK
BONNYRIGG
MIDLOTHIAN
EH19 3AX

01120
031017
03177
01

BIC: RBSGB33L
IBAN: GB86 8005 6316 1700 2363 18

ADV - Separate Advice	Particulars	Withdrawn	Paid In	2010	Balance
BAC - Automated Pay In	BALANCE FORWARD			29 JAN	
BDC - Bank Giro	000057 831617		9900.00	1 FEB	
BSP - Branch Single Payment	000252	3000.00		9 FEB	
SCHG - Charges					
CL - Cashline					
D/D - Direct Debit					
DIV - Dividend					
DR - Account Overdrawn					
FPR - Payment Reclaimed					
IGP - Inter-Branch Payment					
INT - Interest					
ITC - Inter-branch					
LST - List of Items					
NDC - New Dividend Certificate					
POS - Debit Card Transaction					
SID - Standing Order					
SST - Funds Transfer					
01057257					
TSU - Direct or Banking					
DPC - Transaction Tel. or PC					
1st details available on request					
CARD USERS If your card is lost or stolen please contact your branch as soon as reasonably practicable or telephone: 0800 12 35 00					

APPENDIX 16

INDEPENDENT SURVEYOR'S REPORT UNDERTAKEN BY SUMMERS-INMAN

FINAL REPORT PROVIDED TO COUNCIL ON 8 APRIL 2011

Midlothian Council Corporate Resources Division

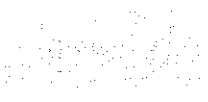
Bonnyrigg Rose Athletic Junior Football Club

Car Park Works

Review of Process of Procuring and Construction of the
New Car Park

Summers-Inman
18 Great King Street
Edinburgh
EH3 6QL

Tel: 0131 556 9464
Fax: 0131 557 6534
Email: enquiries@summers-inman.co.uk
Web Site: www.summers-inman.co.uk



April 2011

EH11028

**Bonnyrigg Rose Athletic Junior FC – Car Park
Review of Process of Procuring and Construction of the New Car Park
On behalf of
Midlothian Council, Corporate Resources Division**

Section	Contents	Page No
1.0	Introduction and brief	1
2.0	Price check of the three tenders submitted	2 - 3
3.0	Report on the extent of works completed to date	4
4.0	Report on the estimated value of the works completed to date	5 - 6
5.0	Commentary on the scope and extent of the works retrospectively	7 - 8
6.0	Opinion as to whether the car park is fit for public use	9
7.0	An opinion on any works that may be required	10
8.0	Conclusion	11

Appendices

- i. Survey Photographs
- ii. Limitations and Exclusions

Revision Record

Revision	Date	Section Changed	Changes
	08/04/2011	N/A	N/A

1.0 Introduction and brief

1.1 We were contacted by John Blair Director, Corporate Resources of Midlothian Council on 28 February 2011 and received a written instruction on 2 March 2011. The purpose of this report is to review the Bills of Quantities and invoices relating to the Car Park works at Bonnyrigg Rose Athletic Junior Football Club and to provide:

- A price check of the three tenders submitted;
- A report on the extent of the works;
- A report on the estimated value of the works completed to date;
- Commentary on the scope and extent of the works retrospectively;
- An opinion as to whether the car park is fit for public use;
- An opinion on any works that may be required

It should be noted that the report is based on information received from Midlothian Council on 3rd March 2011 and one retrospective site visit carried out on 9th March 2011. Following this visit arrangements were made to extract core samples of the car park surface on 5th April 2011.

2.0 Price check of the three tenders submitted

2.1 Brief

From the information that we have received on the project it would appear that there was no project brief set by Midlothian Council to establish Value for Money/the Criteria for them to fund a section of the works (50%) from the Gourlaw Community Fund. On a project such as this we would have expected that there would have been specific criteria such as:

The requirement for competent designers/consultants
A full competitive tendering process with a tender report being prepared
A post contract process for verifying quality of works
A payment process for checking invoices and issuing payment

As a starting point, we note that there does not appear to have been a tender report produced by Bonnyrigg Rose FC (BRFC) or any consultant employed by them – we recommend that Midlothian council ask BRFC for clarity on this point, retrospectively we report the following:-

2.2 Submitted Tenders

Three tenders were submitted to Bonnyrigg Rose FC (BRFC) as follows:-

Dalhousie Properties Ltd (14 Nov 2008)	£64,515.20
Crummock Developments Ltd (18 Nov 2008)	£67,908.02
Fulcrum Construction Mgt Ltd (20 Nov 2008)	£72,275.44

The above figures are exclusive of VAT.

It should be noted that each of the above tenders were submitted on different dates, we would have expected a tender return date to have been set and all 3 tenders opened at the same time to avoid any potential tendering malpractice.

Notwithstanding this we have carried out an arithmetic check of the tenders and found arithmetical errors in both Dalhousie Properties Ltd and Crummock Development Ltd's tender. This would have resulted in the following tender results:

Dalhousie Properties Ltd (14 Nov 2008)	£64,540.04
Crummock Developments Ltd (18 Nov 2008)	£66,508.02
Fulcrum Construction Mgt Ltd (20 Nov 2008)	£72,275.44

The arithmetical errors that we have found in Dalhousie Properties Ltd and Crummock's tenders would not have revised the order however this should have been raised within a tender report produced by BRFC and submitted to Midlothian Council who were funding 50% of the works costs from the Gourlaw Community fund.

We highlight the following observations on the tenders:

- Dalhousie Properties Ltd's tender covering letter has been signed however we note that the copies we have of the other two covering letters are not signed by either John

Laurenson (Crummock) or Stephen Forbes (Fulcrum). We recommend that the validity of these 2Nr tenders are checked.

- The tenders are all based on a 'Bill of Quantities' at this stage we are assuming that this Bill was prepared by a consultant employed by BRFC. We recommend that this is confirmed by BRFC.
- The Bill of Quantities in our opinion does not go into sufficient detail for a project of this size. We also note that there are items not included within the Bill for example there is no item for breaking up the existing hard surfaces. We recommend that Midlothian Council ask BRFC for clarity on this.
- From the information we have there is no reference to any form of contract intended to be executed between the Employer (BRFC) and the selected contractor. We recommend that Midlothian Council ask BRFC if there was any contract executed between BRFC and Dalhousie Properties Ltd.
- We note that the Bill described the car park surface as imported tar shavings on an imported hardcore base. From a cost point of view we view this as an economical approach and taking into account the usage we would view this type of surface as offering value for money. However should lifecycle be taken into account a more durable surface i.e. rolled tarmacadam should have been considered. We also note that due to the quality of the 'new ' surfacing we would not deem it as an acceptable finish.

Competitiveness of Tenderers

We note that all of the three tenders presented to us have been priced at a consistent level and we would deem the rates allowed for carrying out the works as reasonably competitive taking into account the work was priced in last quarter 2008.

Quantities included within Bill

Without any tender/construction drawings or specification we are unable to verify the quantities allowed for within the Bills of Quantities however from site measurements we have established an approx quantity of 1,200m² of new surface area.

The Bills of Quantities do not give a surface area for the tar shaving finish or imported hardcore but applying our approximate area would result in the following translation of build up:

165mm of hardcore
330mm of tar shavings

To ascertain what has actually been provided, three trial pits were excavated across the site. The samples taken revealed that approximately 250mm of hardcore material has been laid consisting of crushed rubble/waste material such as brick, concrete, etc which is of very poor quality. The hardcore material has been overlaid with a top surface of approximately 50mm of tar shavings or road planings.

3.0 Report on the extent of works completed to date

From a review of the Bills of Quantities we would note that the following works appear not to have been carried out in entirety or to the quantity in the original quote:

- 2) To demolish existing brick foundations and remove off site - £1,565; there is still evidence of brick foundations remaining on site.
- 12)&13) Form tar ramp at North West entrance - £4,600; there is a ramp formed but not to the extent/spec required.
- 14-19) New steps - £13,367; during our site visit we saw no evidence of these works however we have been advised that these have been constructed within the grounds – we would not deem these works part of the new car park.
- 23)&24) The quotation lists two different heights of fence, a 3 metre high fence covering 36 linear metres, and a 2.4 metre high fence covering 38 linear metres.
- 27) Lighting pylons - £2,792; these works are incomplete.
- 9)&10) As detailed previously, the Bill of Quantities allows for 200m³ of hardcore which by using our approximate area translates to 165mm, and 400m³ of tar shavings, which equates to 330mm. From samples taken on site it has been established that the following build-up has actually been provided:

Hardcore (crushed rubble/waste material): approximately 250mm, equating to 300m³

Tar Shavings (road planings): approximately 50mm, equating to 60m³

Using these quantities and latest edition industry pricing information, we have calculated that the actual cost of what has been provided on site is £11,833.50, which equates to £886.50 less than the quotation provided.

4.0 Report on the estimated value of the works completed to date

4.1 Invoicing Procedure

Works to date:

As noted previously the Tender amount was **£64,515.20**, taking into account the items that have not been carried out in entirety or to the quantity in the original quote, and the cost of the surface provided (listed in Section 3 of this report) we estimate a value at 'completion' stage of circa £41,305.

Invoices to Date

From information received the following invoices were submitted to BRFC from Dalhousie Properties Ltd

11 May 2009	£48,000.00 (excl. VAT)
20 September 2009	<u>£28,356.00</u> (excl. VAT)
This totals	<u>£76,356.00</u>

The **£76,356** invoiced by Dalhousie Properties Ltd exceeds the original quotation of **£64,515.20**, however we see no record of any variations that would account for this difference.

'Further' Invoices -

When BRFC were questioned by the Council on how much had been paid, 2Nr completely separate/new invoices in a different format still with Dalhousie Properties Ltd letterhead were received by the Council, these are as follows:

20 July 2009 (Interim Nr 1)	£2,608.70 (excl. VAT)
15 October 2009 (Final)	<u>£17,391.30</u> (excl. VAT)
This totals	<u>£20,000.00</u>

It would appear that these latter invoices supersede the previous invoices in an attempt to justify how much had actually been paid to Dalhousie Properties Ltd by BRFC.

It is highly unorthodox for there to be 2nr separate sets of invoices for the one project and it would appear that the latter set of invoices for £20,000 ties in with what was paid to Dalhousie Properties Ltd by BRFC however the former set of invoices (totalling £76,356) were the invoices submitted by BRFC to Midlothian Council to receive a payment of 50% of the works.

In total Midlothian Council have paid £37,500 for a 50% contribution to BRFC however from the current information we have it would appear this is an overpayment based on the £20,000 that has been paid to the contractor.

THIS IS A SERIOUS DISCREPANCY AND WE RECOMMEND THAT THESE FIGURES ARE RAISED AND DISCUSSED FURTHER WITH BRFC.

VAT

It should also be noted that there also appears to be VAT discrepancy's – i.e the latter 2Nr invoices were listed as 17.5% VAT (whilst the original 2Nr invoices were listed as 15%). Also in the latter invoices it is stated as 17.5% but calculation is 15%. It may be that this points

to these latter invoices being prepared in 2010 when VAT was at 17.5% (and the author not taking this into account) rather than 15% in 2009.

The above assumptions are based on information received from Midlothian Council:

- Invoices dated 20 July 2009 and 15 October 2009 from Dalhousie Properties Limited.
- Invoice dated 11 May 2009 from Dalhousie Properties Limited.
- Invoice dated 30 September 2009 from Dalhousie Properties Limited.

4.2 Estimated Value

Given the level of quality constructed on site, the fact that there is unfinished works it is difficult to estimate the value of work completed to date. However, from the information available and from samples taken of the surface we estimate a value at 'completion' stage of circa £41,305.

Had a full tarmacadam surface been specified and properly constructed on site we estimate that those works could have been potentially constructed within the budget cost (£75,000) – given a competitive market.

5.0 Commentary on the scope and extent of the works retrospectively

- 5.1 The scope and extent of the works tendered as per the Bill of Quantities in respect of the Bonnyrigg Rose Athletic Junior FC Car Park includes the following:

Downtakings/Demolition

1. Demolition of existing timber building and brick foundations, including isolation of existing services (gas, water & electricity);
2. Demolition of concrete steps and removal of debris;
3. Demolition of existing perimeter wall, arisings transported and vibrated/compacted where soil removed from north-west stand;
4. Demolition of existing brick wall, removal of metal gate, and filling-in of excavation at north-west entrance;
5. Removal and disposal of existing gates and stanchions;

Excavation/Resurfacing

6. Removal of soil from north-west stand, transported and re-graded to suit south-east banking;
7. Import, vibrate and compact hardcore to suitable level for tar finishing;
8. Import, vibrate and compact tar shavings to grade and level car park;
9. Form new ramp with hardcore at north-west entrance;
10. Form new tar ramp at north-west entrance.

Concrete Steps

11. Excavate and remove fill to form concrete strip foundations;
12. Vibrate/compact loose soil and hardcore to receive shutters and concrete;
13. Supply and erect formwork to form replacement concrete steps, removing formwork thereafter.

Lighting

14. Remove existing lighting pylons and install new pylon ducting to receive new lighting;
15. Erect lighting pylons as previous and connect to existing power supply;
16. Replace security lights on BRSC building with new sodium PIR waterproof lights.

Fencing

17. Supply and install 4m high x 350 x 250 mild steel box column stanchions set in concrete to hold new 4m x 3m high palisade gates;
18. Supply and install 3m high palisade fence set in concrete (36m);
19. Supply and install 2.4m high palisade fence set in concrete (38m);
20. Supply and install 2.4m high x 1.2m wide palisade pass-gate.

General works

21. Temporary removal, re-siting and return of containers from car park;
22. Erect temporary security fence for duration of contract;
23. Supply all plant needed to carry out works
24. Removal of miscellaneous debris on completion.

- 5.2 Not having had sight of the brief for this project, it is difficult to comment on whether the scope and extent of works has met the project brief. However, we wish to make the following comments on the works that have been carried out.
- 5.3 Downtakings/Demolition: It is evident that the extent of downtakings/demolition was to clear part of the site to extend the footprint of the car park by removing the existing timber building and perimeter brickwork wall.
- 5.4.1 Excavation/Resurfacing: the formation of the car park works includes for compacted hardcore to form a suitable level prior to importing tar shavings to grade and level the car park surface. The scope does not include for any excavation, re-grading or levelling of the existing surface prior to laying the hardcore and tar shavings surface, which would have been expected.
- 5.4.2 From excavating three trial pits across the site we established that the build-up of surface is approximately 250mm of hardcore material consisting of crushed rubble/waste material such as brick, concrete, etc, which is of very poor quality. The hardcore material has been overlaid with a top surface of approximately 50mm of tar shavings or road planings.

We noted the following with regard to the tar shavings surface:

- the material appears to be contaminated with brick, concrete and other waste materials;
- the material appears to have been sparsely laid, and has not been adequately compacted;
- the current surface is uneven, there are a number of potholes evident, and previous areas of tarmac and brickwork footings of the demolished building remain.

The importing of tar shavings should have been controlled by a waste transfer note, and we would therefore suggest that this is requested from the Football Club

- 5.4.3 The tar ramp has been formed at the north-west entrance, although to a poor standard as the hardcore sub-base is not contained at the sides of the ramp and the edges have not been sealed to the surrounding surfaces. Additionally, the quantity allowed for the ramp within the quotation does not appear to correspond with what has been formed on site.
- 5.5 Concrete Steps: During our inspection of the site we found no evidence of any new concrete steps that have been formed, and there is no reference to the location of the steps within the quotation. However, our access was restricted to car park area and the steps may have been formed within the stand areas of the football pitch. Therefore, we would recommend that further clarification on this matter is sought from the Football Club.
- 5.6 Lighting: There is evidence of new lighting pylons being installed on site. However, at least one of the pylons does not have any lamps fitted, and we are unable to confirm if the lighting has been connected to the existing power supply. The Football Club should provide confirmation on the operation of the lighting.
- 5.7 Fencing: New palisade fencing has been installed on site and on initial inspection appeared to be of a reasonable standard. However, upon checking one of the stanchions we noted that it was loose and upon further investigation we discovered that the stanchion had not been bedded in concrete, but merely set into the ground. Although the majority of stanchions appear to have been set in concrete, we recommend that the entire length of fence is assessed to give assurance. Furthermore, the quotation lists two different heights of fence, a 3 metre high fence covering 36 linear metres, and a 2.4 metre high fence covering 38 linear metres. This matter should be queried with the Football Club to confirm what has been provided on site, as there does not appear to be 74 metres of fencing at different heights.

6.0 Opinion as to whether the car park is fit for public use

6.1 Given that the Football Club have offered use of the car park to the public, there are several questions that need to be raised in respect of public use with regard to the condition of the current car park:

- We would question the adequacy of the existing build-up and surface of the car park in terms of suitability and longevity. The existing surface is already showing signs of wear and tear with a number of noticeable potholes evident (see section 5.4.2). It is likely that the 'tar shavings' surface will require regular maintenance to sustain a reasonable surface finish. Tar shavings are made up from the arisings taken when scabbling bitumen based road surfaces prior to resurfacing. They are more commonly used as a sub-base material, and would be likely to agitate and displace when used as a surface to be regularly used by vehicles. Furthermore, the crushed rubble/waste material imported as hardcore is of very poor quality, and is not suitable for use as a sub-base material. This material does not compact well to form a suitable base, and is likely to contain voids, which will displace under minimum pressure, further exacerbating the quality of the surface.
- Given that the car park works were carried out in 2008, the provision of parking for public use would have to meet the requirements of the Disability Discrimination Act 1995 which imposes duties on service providers requiring "reasonable adjustments" to be made when providing access to goods, facilities, services and premises. In respect of car parking this would mean that as a minimum there should be at least one designated parking space for disabled people or 5% of the total parking capacity, whichever is the greater. The following guidance would also apply:
 1. the location of the accessible bay should be clearly signposted;
 2. bays should be identified as provision for disabled drivers or passengers only;
 3. bays should be as close as possible to (and in any case no more than 50m from) the principal entrance;
 4. bays should be level, wide enough for car doors to be fully opened to allow disabled drivers and passengers to transfer to a wheelchair parked alongside and long enough to allow space for tail loading;
 5. all pedestrian routes within the car park should be level or with shallow gradients;
 6. the car park surface should be smooth and even and free from loose stones, with undulations not exceeding 3mm under a 1m straight edge for materials such as tarmac or concrete.

The current car park does not meet any of the above guidance and the existing surface would require considerable work to meet the requirements of points 5 and 6.

- 6.2 If the assumption is correct that the car park is to be offered to the public, it raises queries regarding how the car park is to be managed and controlled, and whether there is a requirement for the car park to be adopted by the Council, however, it is highly unlikely that the car park would meet adoptable standards. This is especially pertinent in terms of the control of parking in that the surface is not marked out in spaces, nor does the tar shavings finish lend itself to taking markings. This is a matter that should be raised with the Football Club in consultation with the Council.
- 6.3 For the reasons listed above in respect of the condition and build-up of the existing surface, the lack of provisions for disabled persons, and the management and control of public parking we are of the opinion that the car park is not fit for purpose, or public use.

- 7.0 Opinion on any works that may be required, if any, to enable the car park to be fit for public use**
- 7.1 To enable the car park to be fit for public use, as a minimum there should be designated parking provision for disabled persons, which meet the guidelines listed in section 6.1. This would require extensive works to provide a level, smooth and even surface.
- 7.2 There are issues regarding the expected durability of the surface, with regard to regular use by vehicles, and therefore a more durable surface finish is likely to be required. For example, a standard build up for a car park is 150 to 200mm of compacted Type 1 hardcore with 100mm of bitumen surface, giving a 300mm build-up. Additionally, a public car park provided by a local authority would normally include pre-cast concrete kerb edgings, thermoplastic marked out spaces including provision for disabled parking, barriers, signage, drainage, etc. For the car park to be acceptable for public use, other local authority adoptable standards would need to be considered.
- 7.2 There are likely to be issues regarding how the parking is controlled and managed, as there are currently no marked out spaces. A suitable surface finish would be necessary to allow spaces to be marked out.

8.0 Conclusion

8.1 Cost

It would appear from the information provided that the processes utilised when tendering the project were inadequate on a project partly funded by Midlothian Council, albeit the works appear to have been competitively tendered. There are also major issues with the fact that the tendered works have not been completed. The invoicing from the main contractor to the client is also highly unorthodox and from the information we have it would appear that Midlothian Council have overpaid for sub standard work.

8.2 Quality

The quality and condition of the works in general are poor, specifically the new car park surface, leading to queries relating to its suitability as a car park for public use. In addition, the lack of provisions for disabled persons, and queries relating to the proposed management and control of public parking lead us to the opinion that the car park is not fit for purpose, or public use.

Throughout this report we have made several recommendations, a summary of these are as follows:

- A check on the validity of the tenders submitted by Crummock and Fulcrum;
- Query BRFC as to who prepared the Bills of Quantities and how the design was prepared;
- Query BRFC regarding how the design for the scheme was prepared, and what was the original project brief;
- Query BRFC regarding a building contract i.e was one set up? And if there is an intention for the contractor to return to site to complete the works/carry out remedial works;
- Query BRFC regarding the 2Nr separate sets of invoices for the project and ask specifically how Midlothian paid £37,500 whereas the football club appear to have only paid £20,000;
- Review the requirements for remedial works.
- Query BRFC regarding whether a waste transfer note was obtained for importing the tar shavings
- Query BRFC regarding clarification of formation of the concrete steps and relevance to car park.
- Query BRFC regarding whether the new lighting has been connected to the existing power supply.
- Query BRFC regarding fencing and reference to 2 different heights and lengths.

APPENDIX i
SURVEY PHOTOGRAPHS



Photo 1 – General view of car park area, west facing.



Photo 2 – General view of car park area, west facing.



Photo 3 – General view of car park area, east facing.



Photo 4 – Imported material piled at east end of car park.



Photo 5 – General view of car park area, west facing.



Photo 6 – Footing remaining from demolished building.



Photo 7 – Access/egress to Lothian Street.

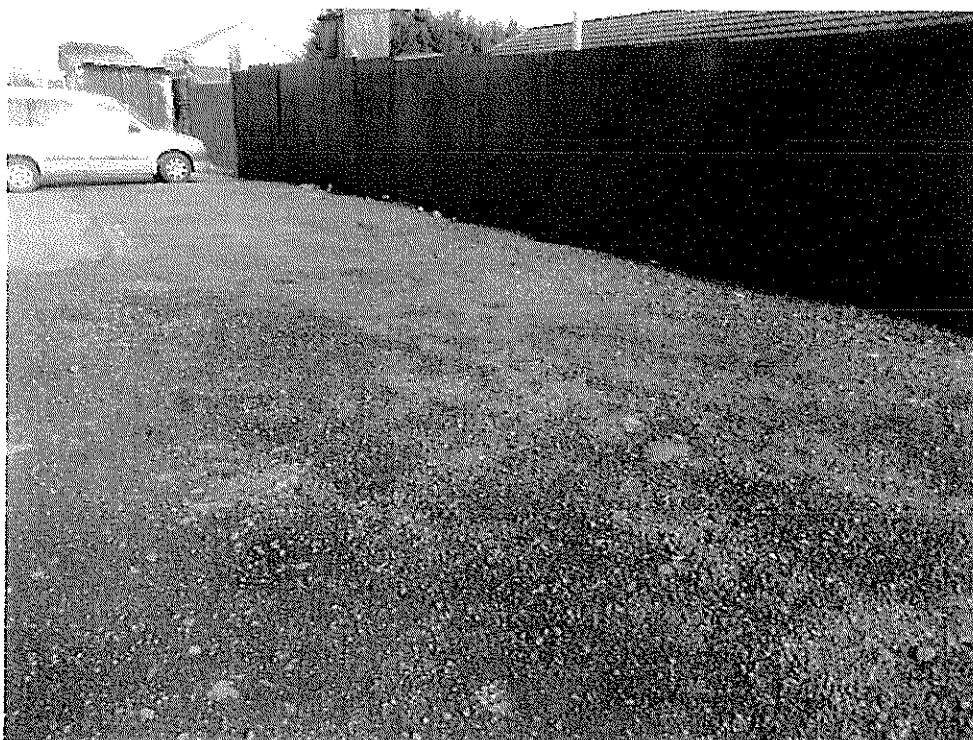


Photo 8 – Palisade fencing faced with plywood sheeting.



Photo 9 – General view of car park area, east facing.



Photo 10 – General view of car park area, east facing.



Photo 11 – Uneven surface noted.



Photo 12 – Palisade fencing.



Photo 13 – General view of car park area, east facing. Pothole noted.



Photo 14 – General view of car park area, east facing. Uneven surface noted.



Photo 15 – General view of car park area, east facing.

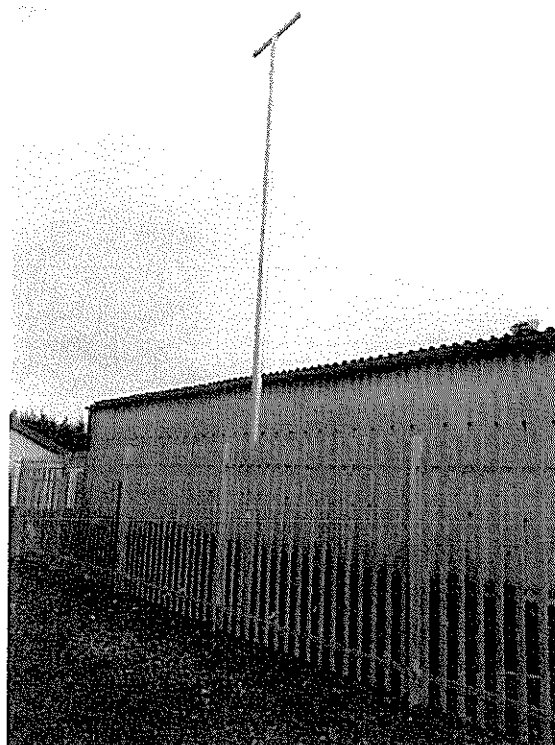


Photo 16 – No lamps fitted to lighting pylon.



Photo 17 – General view of existing car park surface finish.



Photo 18 – Palisade fence stanchion not bedded in concrete.



Photo 19 – General view of car park and entrance, west facing.

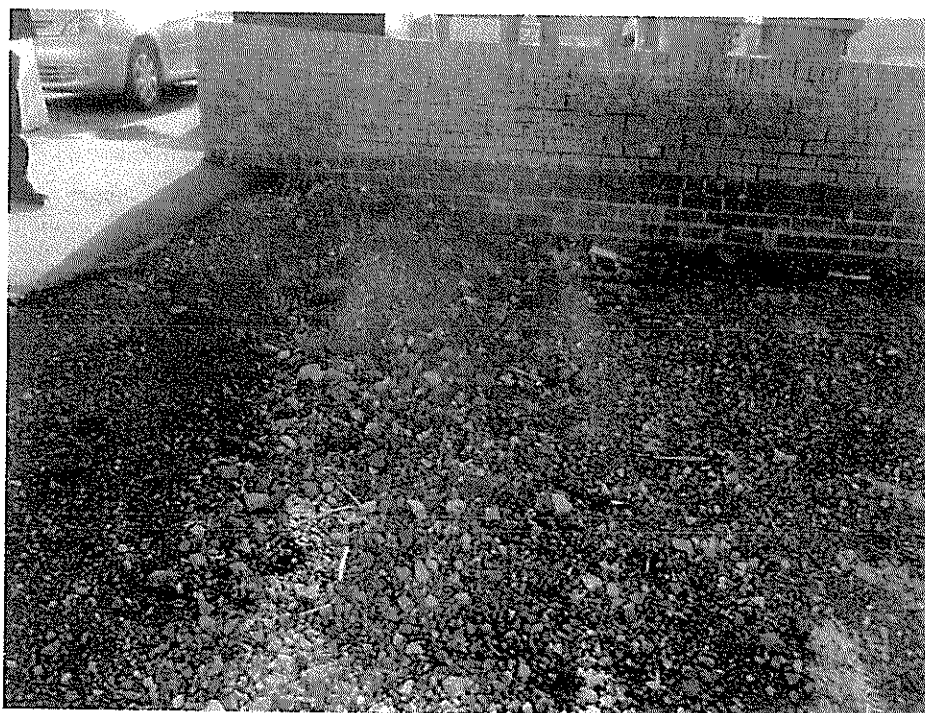


Photo 20 – Tarmac ramp into car park and loose imported material.

All Survey Photographs were taken on Wednesday 9th March 2011

APPENDIX ii

LIMITATIONS AND EXCLUSIONS

Inspection

Our initial inspection consisted of a non-disruptive survey of the car park area, followed by an inspection by an appointed contractor to extract core samples of the car park surface. All accessible areas externally were inspected. We did not gain access to the football pitch or stand areas.

Deleterious and Hazardous Materials

We have advised in our report of any concerns raised in respect of deleterious and hazardous materials during our inspection. We have not commissioned any specialist investigations or tests to ascertain the presence of deleterious or hazardous materials in the fabric of the subject.

Liability and Confidentiality

Our report is for the sole use of our Client, Midlothian Council. The content should not be used by any third party without prior written consent from ourselves, which will not be unreasonably withheld or delayed.



Edinburgh
18 Great King Street
Edinburgh
EH3 6QL

Tel: 0131 556 9464
Fax: 0131 557 6534

Leeds
4240 Park Approach
Thorpe Park
Leeds
LS15 8GB

Tel: 0113 204 4180
Fax: 0113 260 1241

Leicester
6 Thorpe Way
Grove Park
Enderby
Leicester
LE19 1SU

Tel: 0116 254 2774
Fax: 0116 228 0247

London
Suite 4
The Riverside Centre
42-46 High Street
Kingston Upon Thames
KT1 1HL

Tel: 020 7242 9152
Fax: 020 3166 0085

Luton
Basepoint Business Centre B37
110 Butterfield
Great Marlings
Luton
LU2 8DL

Tel: 01582 723 561
Fax: 01582 433 744

Newcastle
62 The Drive
Gosforth
Newcastle upon Tyne
Tyne & Wear
NE3 4AR

Tel: 0191 284 1121
Fax: 0191 285 5340

Stafford
Suite 12
Lakhpur Court
Staffordshire Technology Park
Stafford
ST18 0AR

Tel: 01785 257 221
Fax: 0800 007 3369

E-mail : edinburgh@summers-inman.co.uk
Website : www.summers-inman.co.uk
Summers-Inman is a Limited Liability Partnership

APPENDIX 17

Photo no1 (taken in 2003) shows old: floodlights, concrete car park and wall (now demolished)



Photo no2 (taken on 10/11/10) shows planings laid outside Social Club



APPENDIX 17

Photo no3 (taken on 10/11/10) shows planings laid near to Lothian Street entrance



Photo no4 (taken on 10/11/10) shows gap created for new access and wooden box



APPENDIX 17

Photo no5 (taken on 10/11/10) shows new palisade fencing and floodlight post (awaiting lights)

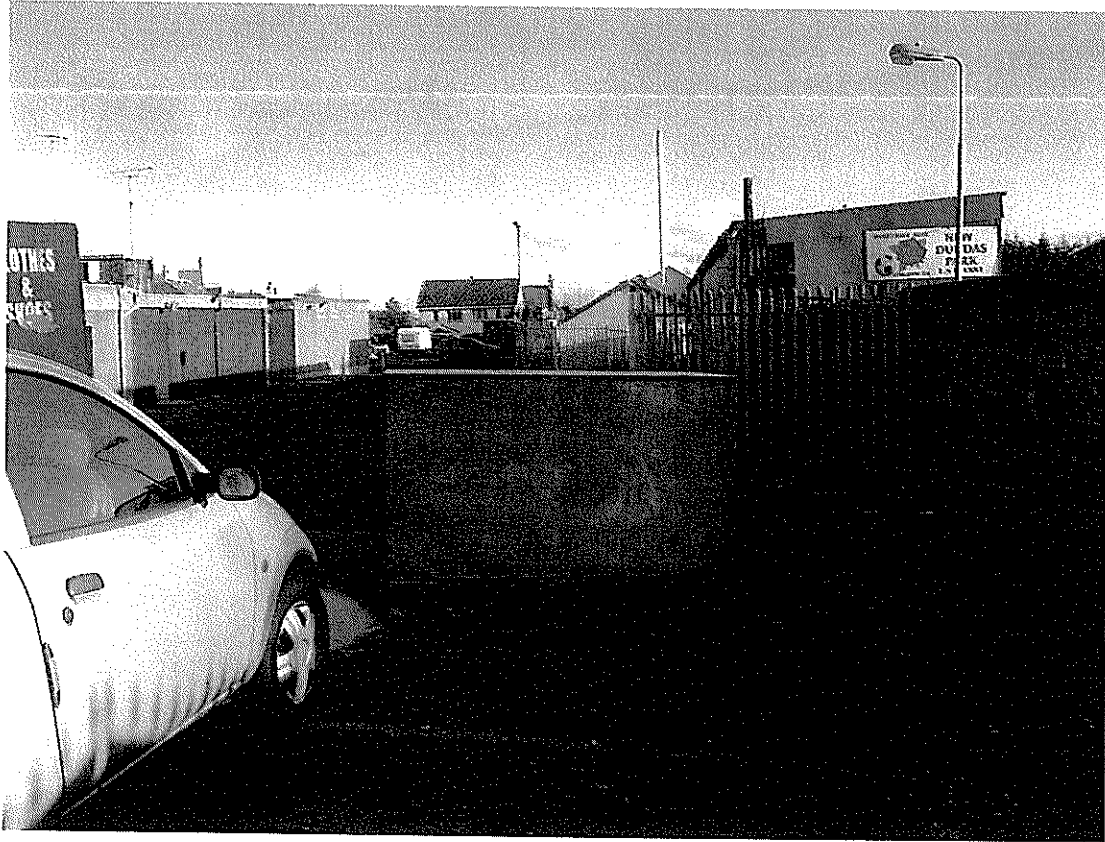


Photo no6 (taken on 10/11/10) shows other floodlight (on right) and remains of old concrete car park (on left)



APPENDIX 17

Photo no7 (taken on 10/11/10) shows access blocked by wooden box, ramp and new floodlights (near post has no lights yet)



APPENDIX 18

Risk & Audit Services Gourlaw Sub Committee Funding Review

Line	Date	Event	Amount	Supporting Info / Commentary	Appendix
A	04-Mar-08	Request for funding	50% of estimated cost of works = £75,000 £48,000 plus £7,200 (VAT@15%) = £55,200	Letter from BRJAFC. 50% of cost of works approved by Sub & GP Committee on 7 Oct 08 ie £37,500	Appendix 1
B	11-May-09	Invoice from Dalhousie Properties	£27,600	Works carried out detailed in invoice	Appendix 5
C	08-Jul-09	Payment to BRJAFC	£27,600	50% of £55,200 paid by Council	Appendix 6
D	30-Sep-09	Invoice from Dalhousie Properties	£28,356 plus £4,253.40 (VAT@15%) = £32,609.40	Works carried out detailed in invoice	Appendix 7
E		Total Invoices Submitted to Council	£76,356 plus £11,453.40 (VAT@15%) = £87,809.40	(B + D)	
F	25-Jan-10	Payment to BRJAFC	£9,900	£37,500 - £27,600 paid by Council	Appendix 8
G		Total Payments made to BRJAFC	£37,500 (C + F)		
H	11-Feb-11	Bill of Quantities	£64,515.20 plus £11,290.16 (VAT@17.5%) = £75,805.36	3 Bill of Quantities dated November 2008 submitted by ex-president of BRJAFC. Dalhousie Properties were lowest	Appendix 12
I	11-Feb-11	Invoice from Dalhousie Properties - Interim Payment no 1	£17,391.30 plus £2,608.70 (VAT@15%) = £20,000	Duplicate invoice dated 20 July 09 submitted by ex-president of BRJAFC (carry out works as per quotation) *	Appendix 13
J	11-Feb-11	Invoice from Dalhousie Properties - Interim Payment no 2 Final	£2,608.70 plus £391.30 (VAT@15%) = £3,000	Duplicate invoice dated 15 Oct 09 submitted by ex-president of BRJAFC (carry out works as per quotation) *	Appendix 13
K		Total Duplicate Invoices Submitted to Council	£20,000 plus £3,000 (VAT@15%) = £23,000	BRJAFC bank statements show 2 x payments leaving bank account (£20,000 on 27 Jul 09 & £3,000 on 9 Feb 10)	Appendix 15
L		50% of cost of works	£11,500		
M		Difference between amount paid based on original invoices and duplicates	£26,000	Potential overpayment based on invoices submitted (£37,500 - £11,500)	

* VAT on invoices detailed as 17.5% but calculated as 15%

