

REPORT TO: Licensing Sub-Committee

MEETING DATE: 14 September 2017

BY: Depute Chief Executive (Resources & People Services)

SUBJECT: Operation Scandium

1

1 PURPOSE

- 1.1 To advise the Sub-Committee of the latest position relative to Operation Scandium and steps being taken to combat metal theft.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee-

- (i) notes the terms of the letter from Police Scotland and the Final Report produced by Police Scotland with regard to Operation Scandium.

3 BACKGROUND

- 3.1 Operation Scandium was a multi-agency collaboration set up to tackle metal theft in Scotland. It was led by British Transport Police and ran from July 2015 to March 2017.
- 3.2 The agencies involved have now produced their final report on the outcomes and findings of the Operation. While it did not involve the Council directly, it is obviously of relevance to the Council relative to the licensing of metal dealing activities, which has been overhauled by the Air Weapons and Licensing (Scotland) Act 2015.
- 3.3 No specific action is currently required, and the Final Report annexed hereto is presented to the Sub-Committee for their information following completion of the Operation.

4 POLICY IMPLICATIONS

- 4.1 None

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 None
- 6.2 Personnel - none
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Final Report from Police Scotland re Operation Scandium.

AUTHOR'S NAME	Ian Forrest
DESIGNATION	Senior Solicitor
CONTACT INFO	x7389
DATE	1 September 2017



Monday 31 July 2017

To whom it may concern:

Operation Scandium – Tackling Metal Theft in Scotland

The theft of metal has caused significant disruption to communities, transport networks and industry and more widely the economy of Scotland in recent times.

In July 2015, British Transport Police (BTP) was charged with leading a multi-agency programme of work to minimise the impact of metal theft and, with the support of funding from Transport Scotland, prepare for the implementation of the Air Weapons and Licensing (Scotland) Act 2015 in respect of scrap metal dealers.

Operation Scandium was planned and delivered, providing enforcement, prevention and engagement activity supported by education and training and an extensive awareness and media campaign. The enclosed report details the strategic and tactical approach taken by many of the partner agencies involved and highlights;

- education and enforcement initiatives
- the scope of operational activity
- evidence on the impact of Operation Scandium

However, the challenge remains; metal thefts still occur and can cause major disruption to communities and industry especially where the supply of vital services (power, rail and telecommunications) are affected. A theft of a relatively small piece of cable can have a huge 'ripple' effect in terms of disruption and financial costs.

Overall, it is pleasing to report a reduction in metal theft and the successful introduction of new legislation - successfully delivered through Scandium and offering value for money, a good return on taxpayer investment and lessening the costs associated with metal theft in Scotland.

Yours sincerely

John McBride MA MCMI
Chief Superintendent

British Transport Police
Divisional Headquarters, 90 Cowcaddens Road, Glasgow G4 0LU
email john.mcbride@btp.pnn.police.uk **direct** 0141 775 5129

Operation Scandium



Final Report

Contents:

- 1 Executive Summary**
- 2 Introduction**
- 3 Background**
- 4 Governance & Accountability**
- 5 Strategic Objectives**
- 6 Operational Activity**
- 7 Air Weapons and Licencing (Scotland) Act 2015**
- 8 Post legislation activity**
- 9 Looking Forward**
- 10 Conclusions**
- 11 Glossary**

1. Executive Summary

This report details the activity and outcomes from Operation Scandium, an operation established to assist with the development and implementation of legislation contained within the Air Weapons & Licensing (Scotland) Act 2015 introducing a new regulatory framework for Scrap Metal Dealers. The operation commenced in July 2015 through to March 2017 and was fully funded through a grant from Transport Scotland.

During the operation;

- In excess of 420 Scrap Metal Dealer premises visits were conducted pre and post legislation to ensure awareness of the forthcoming legislation change and latterly compliance checks
- Visits formed part of the agreed three phase approach; engagement, education and enforcement which has greatly improved communications and relationships between enforcement bodies and the Scrap Metal Industry and assisted in the smooth implementation of the new legislation
- Analysis of metal thefts indicates a 52% reduction in reported Metal Theft¹
- The cost of metal theft reduced by £1million compared to the previous 14 month period¹
- Over 6,000 vehicles were stopped during multi-agency days of action when vehicle occupants were made aware of the new legislation²
- In excess of 2,100 offences were detected²

¹ to 1st September 2016

² to 31st March 2017

- Serious and organised crime groups who attacked the national electricity distribution network were successfully dismantled³
- A Successful media strategy was delivered through the SBRC
- A coordinated Crimestoppers campaign ran under the banner 'Scrap the Cash', highlighting an anonymous reporting channel
- The Crimestoppers campaign increased reporting by 50%
- The funded operational activity was supplemented by additional resources provided by various agencies including SEPA, SBRC, DWP, HMRC, DVSA, SSE, HOIE, DWP, BT and SPEN
- The partner agencies contribution added significant discretionary benefit to the funding made available, greatly increasing the effectiveness of the operational deployments and sharing good practice across disciplines on alternative enforcement options that could bear down on metal theft

³ Operation Fuga

2. Introduction

This report provides information on the background to the creation and delivery of Operation Scandium.

Operation Scandium was the name given to a multi-agency collaboration to tackle metal theft in Scotland.

It was led by British Transport Police and managed through the Scottish Metal Theft Working Group.

It operated from July 2015 through the introduction of the Air Weapons and Licensing (Scotland) Act 2015 on September 1st of 2016 with operational activity concluding on the 31st March 2017.

The report provides information and data and explains the concept of operations, outlining the strategic objectives, operating model, performance measurements, and governance and bidding protocols.

3. Background

In 2008 British Transport Police (BTP) accurately identified metal theft as an emerging issue affecting the railways, other industries and communities.

BTP has led the way on combating metal theft and are the current National Police Chiefs' Council (NPCC) Metal Theft portfolio lead in England and Wales under Chief Constable Paul Crowther OBE.

In Scotland, Chief Superintendent John McBride chairs the sister group, the Scottish Metal Theft Working Group supported by the Scottish Business Resilience Centre (SBRC). This provides BTP with the opportunity to:

- Lead the way in developing police policy, practice and tactics⁴
- Facilitate good practice and learning from elsewhere in the UK
- Adapt tactics with Scottish partners
- Work in partnership with other law enforcement agencies and partners
- Drive multi agency working to tackle offending
- Raise awareness of the wider issues associated with the impact of metal theft across Scotland (crime trends, organised crime links etc.)

As metal theft and the associated disruption to industry, commerce and communities increased it became widely accepted that the existing legislative framework was outdated. There was a need to update laws and regulations to take account of a different operating landscape, a changing recycling industry and introduce a framework with strengthened checks and balances to deter criminality driven by high commodity prices.

In effect placing additional responsibility on the purchaser, predominantly scrap metal dealers, to confirm the identification of persons selling scrap metal. This step would assist in proving dishonesty and ownership in a crime where disposal routes

⁴ Operation Tornado and Operation Leopard

offered sellers anonymity and cash transactions provided no traceability. When combined, these two aspects made investigations almost impossible and made bringing offenders to justice particularly difficult.



Prior to the implementation of the Air Weapons and Licensing (Scotland) Act 2015, under the Civic Government Scotland Act 1982, sellers of metal could trade with a scrap metal dealer with no verification of their details and receive cash immediately in payment.

This system offered little deterrent to unscrupulous metal thieves and arguably reinforced the view that metal theft was a low risk high reward crime. With scrap metal dealers under no obligation to verify identities of sellers, the weaknesses in the system were obvious. In short the legislation was not fit for purpose. It offered, to those willing to exploit it, a ready-made market where the disposal of stolen metal released cash virtually without any comeback.

The need for the legislation to be reviewed in Scotland was subsequently recognised and accepted by the Scottish Government. The implementation of the Air Weapons and Licensing (Scotland) Act 2015 addresses a number of shortcomings and improves the current legislation by removing cash transactions, improving record keeping and introducing the need for verification of identification of sellers.

4. Governance and Accountability

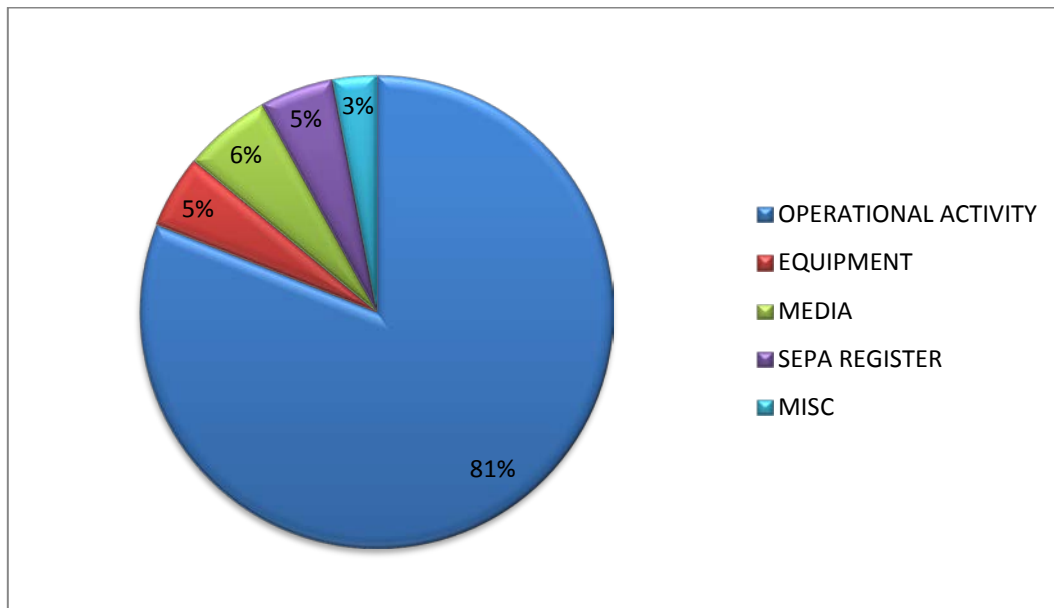
In early 2015 Transport Scotland committed £600,000 to support the police and other agencies in taking additional measures to tackle metal theft. BTP as the enforcement lead planned, implemented and managed Operation Scandium to ensure maximum value was obtained from the funding made available. This included;

- Consulting on and agreeing strategic objectives
- Overseeing and collating national information on trends
- Reviewing operational performance and delivery and
- Financial monitoring ensuring transparency and accountability

Quarterly Scottish Metal Theft Working Group meetings provided the oversight and scrutiny of the Scandium work including national metal theft trends (whether lead attacks from churches and other faith buildings, or catalytic convertor theft) where analysis was shared, reviewed and discussed. Operational activity conducted under Scandium was shared with members who were apprised on bids received for proposed operational activity.

The Scottish Metal Theft Working Group comprises senior representatives from a wide range of business sectors and includes Scottish Government, the Scrap Metal Industry, Police leads and other partners from across the country. In line with strategic objectives the majority of the funding was utilised for operational activity.

This chart breaks down how the funds were allocated:



The process for the allocation of funds was overseen by Operation Scandium's Tactical lead, BTP Chief Inspector Stuart Wilson who together with Transport Scotland representatives met frequently to carefully consider funding bids received from partners.

Each bid for funding was assessed against agreed criteria to ensure the proposals contributed to the strategic objectives of reducing the theft of metal, disrupting organised crime, raise awareness of metal theft and gather information and intelligence relating to metal theft.

Successful funding bids led to operational deployments and the outcomes from individual operations were collated to monitor performance against the strategic objectives and ensure funding was being utilised appropriately.

At the time of writing there have been 93 successful bids which have facilitated concerted operational activity across Scotland.

5. Strategic Objectives

To provide guidance and direction for agencies bidding for funding and to ensure deployments contributed positively to the activity prior to implementation of the new legislation, a series of strategic objectives were set and agreed between BTP, Transport Scotland and representative of the Scottish Metal Theft Working Group.

These objectives, listed below, would ensure a focussed multi-agency approach to the three phase enforcement and education strategy.

- To reduce the theft of metal
- To raise awareness in law enforcement agencies on forthcoming legislative changes
- To raise awareness of Scrap Metal Dealers including Itinerant Metal Dealers around legislative changes
- To carry out a risk assessment through a structured pattern of Scrap Metal Dealer visits
- To ensure compliance with the new legislation and identify and deal with non-compliance appropriately
- To disrupt organised criminal networks involved in metal theft activity
- To develop the intelligence picture of metal theft activity across Scotland including a focus on non-compliant Scrap Metal Dealers

A number of potential operating models were considered and a Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis used to determine the best approach. These included;

- 1 A centrally based team, moving around the country
- 2 Regional teams working in smaller areas across the country
- 3 A small core central coordination team with a federated approach
- 4 A multi-agency approach with the aim of developing innovative ways to achieve the strategic objectives



Option 4 - the multi-agency option was identified as the preferred solution to deliver operational success for Scandium. Operational activity was delivered in three phases.

Firstly a pre-legislation phase; followed by a post legislation education phase and finally an enforcement phase. This structured approach ensured all those affected/involved in the legislative change were fully informed and engaged in the implementation process. This approach provided a degree of industry accountability when the enforcement phase commenced.

6. Operational Activity



Since operational activity commenced in July 2015 the following agencies have been actively involved in multi-agency days of action

- British Transport Police
- Police Scotland
- SBRC
- SEPA
- DWP
- Trading Standards
- DVSA
- HMRC
- Local Authorities
- BMRA
- BT
- SSE
- HOIE
- SPEN

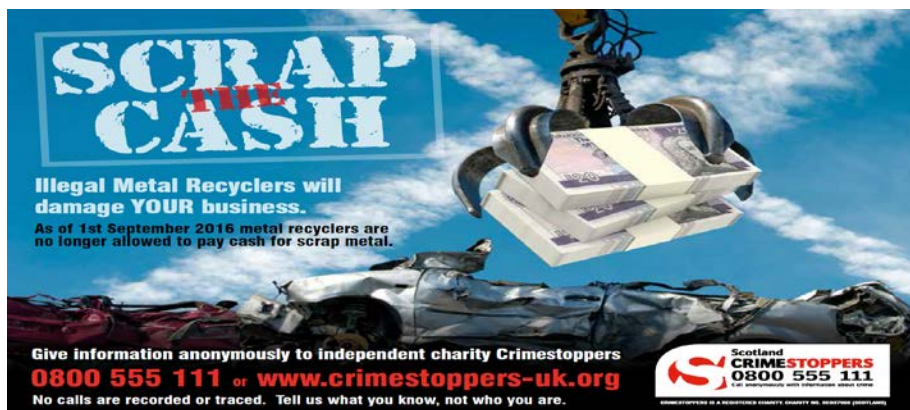
As part of the education phase the Scottish Business Resilience Centre (SBRC) had oversight for the media strategy which was run in parallel with the operational phases prior to the implementation of the legislation. This aimed to inform and educate all those likely to be affected by the changes in the new legislation.

As part of this strategy, eye-catching images were used in various formats including Billboard displays at key locations near to Scrap Metal Dealers, posters displayed within Scrap Metal Dealers yards, mail-drops and calling cards. Excellent use was made of social media including the website www.metaltheftscotland.org.uk and extensive use of Twitter.

The media campaign was supported with follow up visits conducted by BTP officers deployed on Operation Scandium to address any concerns highlighted through the risk assessment process and other information and confirm understanding of the new legislation.



From July 2015 up until the introduction of the new legislation in excess of 300 visits to Scrap Metal Dealers were carried out. In addition there was an extensive mail drop to all registered itinerant metal dealers with the intention of ensuring a clear understanding across the whole industry of the new legislation.



A significant element of the operation was a dedicated crime prevention campaign run together with our partners in Crimestoppers.

The campaign geared up as the implementation date for the new legislation approached, raising awareness and encouraging the industry to provide confidential information on those who would look to flout the new legislation. As a result information has been anonymously received via Crimestoppers that has been acted upon.

No cash for scrap

As of 1 September 2016, we are no longer allowed to pay cash for scrap metal.

But we can still pay you!

Please discuss the range of alternative payment options with the weighbridge staff.

Under the Air Weapons and Licensing (Scotland) Act 2015, it is an offence for anyone to buy scrap metal for cash or by any other form of payment than a crossed cheque or electronic transfer of funds.

As well as banning cash payments, the Scottish Government has made it a requirement for us to verify the identity of those selling scrap metal.

Acceptable forms of identification include:

- A valid photographic ID, which also sets out the seller's full name and residential address.
- A formal document, such as a utility bill, that bears the person's full name and residential address and a valid photographic ID that includes the seller's date of birth as well as their full name and residential address.

All documentation must have been issued within three months of the date the metal is acquired by the dealer or no more than three months before the date the metal is disposed of by sale or exchange by the dealer.

BMRA
BRITISH METAL RECYCLING ASSOCIATION

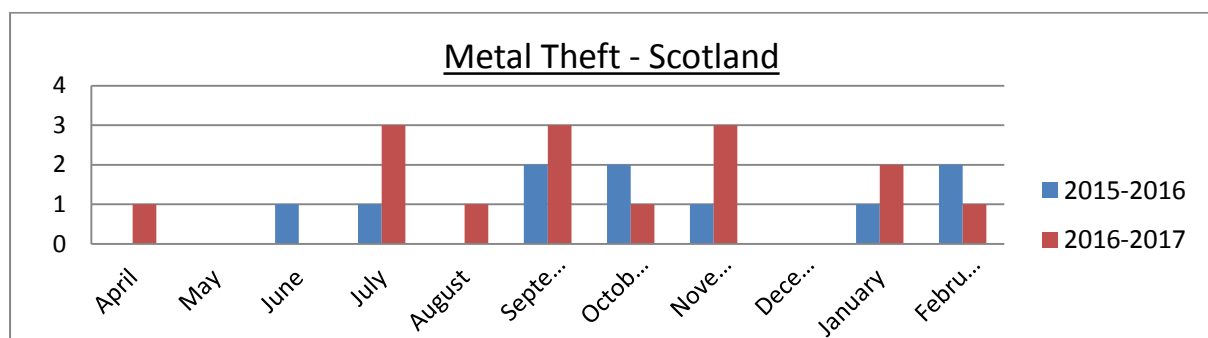
Scottish Business Resilience Centre
Creating a secure Scotland for business to flourish in

BRITISH TRANSPORT POLICE

SEPA
Scottish Environment Protection Agency

POLICE SCOTLAND

The table below shows the increased reporting to Crimestoppers during the campaign. The data shows a 50% increase in calls as a result of the campaign.



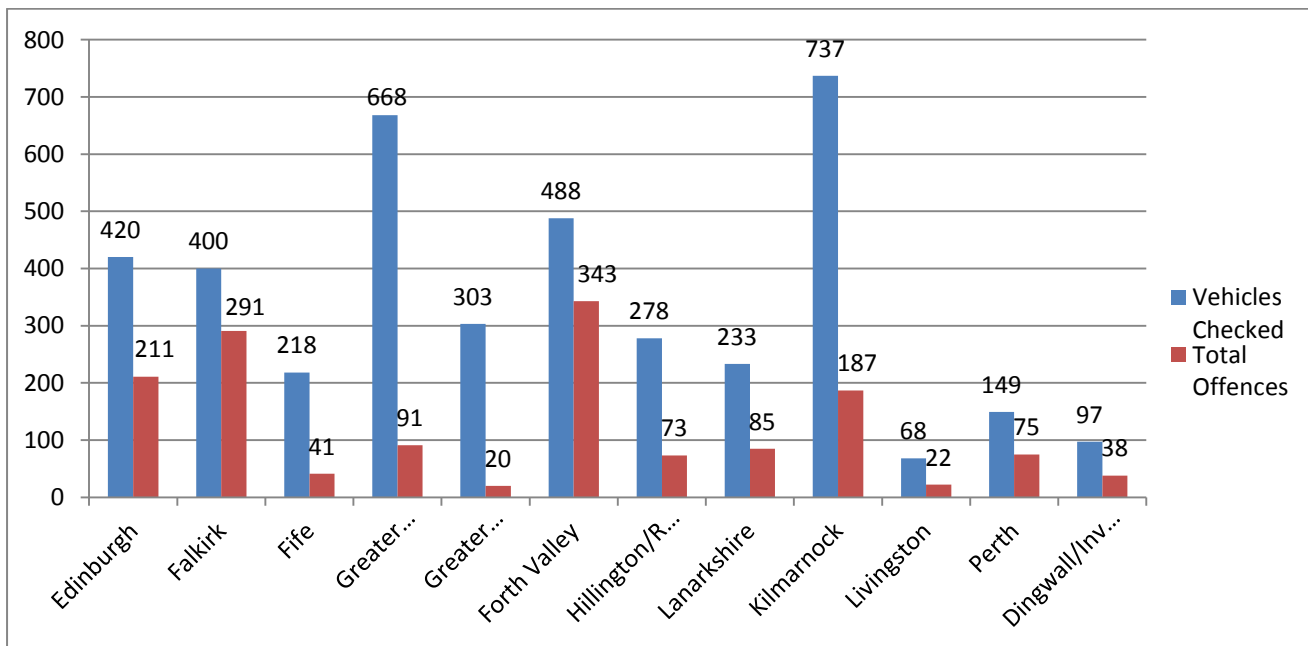
Representatives from BTP also attended at a series of community events hosted by the British Metal Recycling Association (BMRA) to directly engage with their members and address any concerns relating to the proposed legislative changes.

A key objective of Operation Scandium was to raise the profile of the legislation and directly engage with and educate those involved with the scrap metal industry. This was achieved through a number of high profile multi agency deployments across Scotland at carefully chosen locations near to scrap metal dealers. An example of this was a deployment in Edinburgh in October 2015 where over 250 vehicles were stopped and 147 offences were recorded by the various agencies attending. This activity was replicated across Scotland and helped achieve the objective of raising the profile of Operation Scandium by directly engaging with the public and harnessing the power of the media interest to deliver key messages.

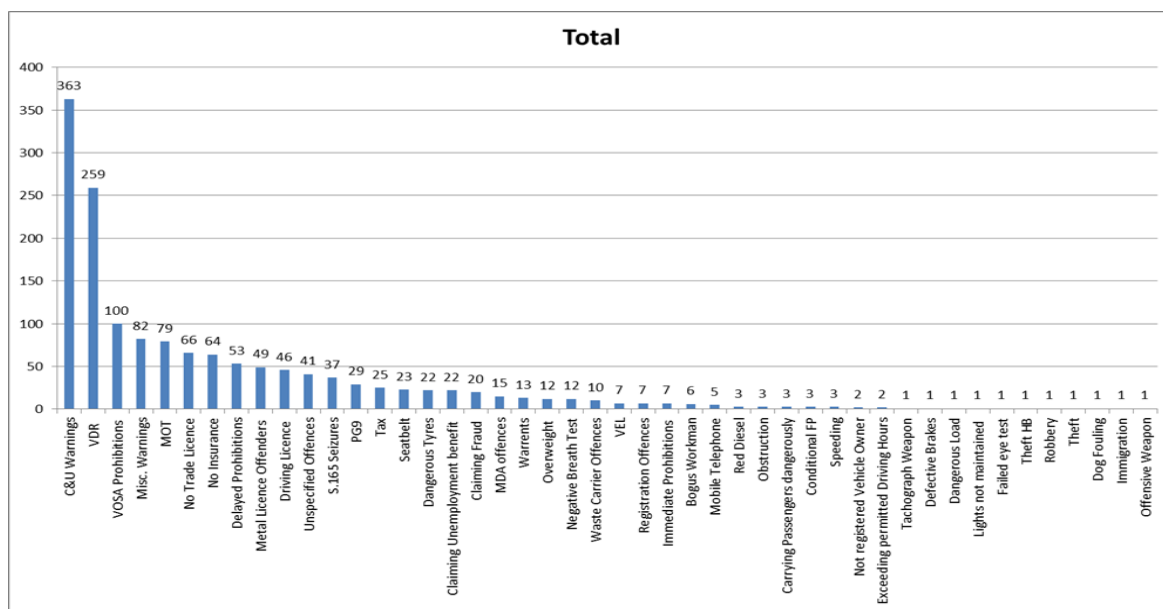
SEPA have stated that these deployments were particularly beneficial in allowing them to work with partner agencies and directly impact on areas of concern to their business. This participation has provided them with the opportunities to utilise their own legislative powers under the Regulatory Reform (Scotland) Act 2014.

The tables below shows the number of vehicles stopped and the number of offences recorded across Scotland during Scandium deployments between July 2015 and September 2016 (the offences also include those recorded by other agencies including DWP and SEPA).

Vehicles stopped/offences by location



Recorded offences by type



Disrupting organised crime was a key objective for Operation Scandium. Serious and organised crime continues to pose a serious threat to industry, communities and the economy.

The organised nature of offending corrupts lawful business; recyclers, hauliers, freight operators and exporters. The scope for tax evasion is ever present and this aspect of Scandium fits with the Scottish Government and Police Scotland strategy for tackling serious organised crime.

The success here is best illustrated through Operation Fuga, an investigation focusing on an Organised Crime Group (SOCG) involved in the large scale theft of metal disrupting electricity supply to homes and businesses.

The group was primarily based in Glasgow but they were criminally active across all 13 policing divisions in Scotland as well as being active in the North of England. Under Operation Scandium a strategy was developed by BTP, Police Scotland and Home Office Immigration Enforcement (HOIE) to tackle the group.



Following extensive work a multi-agency day of action was executed. A number of members of the crime group were targeted at residential premises across Glasgow and Lanarkshire.

As a result, two people were deported, two were extradited, three left the UK of their own accord and deportation orders are in force should they return, a further three are in custody awaiting deportation, one was removed from the UK, one is in pre-trial custody in Austria. This targeted activity has ensured this group has been

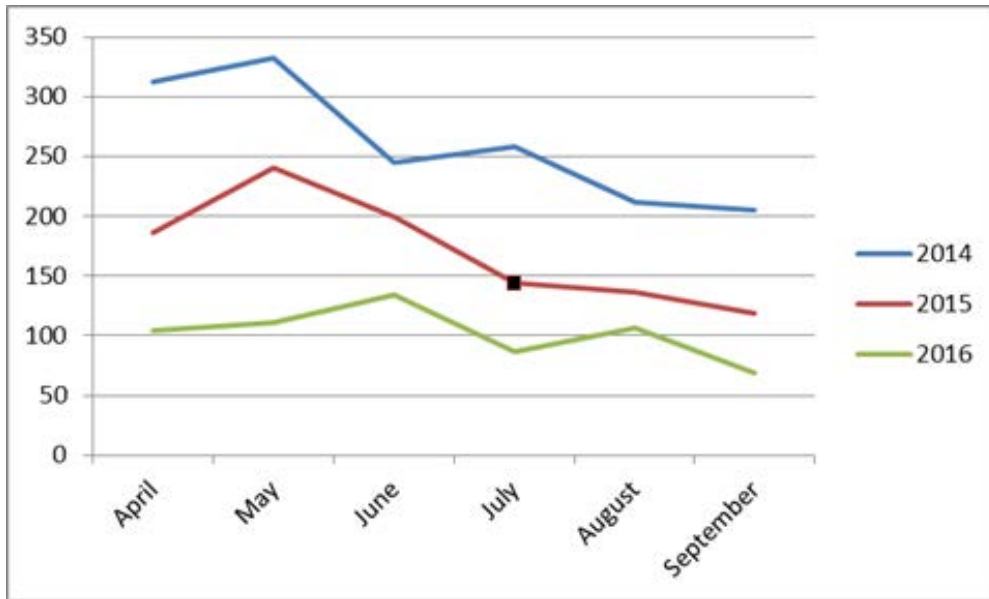
successfully dismantled to such an extent that the threat from their criminal enterprise has reduced significantly.

Since Operation Scandium operational activity commenced in July 2015 there has been a significant reduction in the frequency of offending and associated cost. Analysis conducted on crime data from BTP, Police Scotland and various utility companies has confirmed a 52% or £900,000 reduction in the costs associated with metal theft in comparison to the period from April 2014 to July 2015 where the associated costs were recorded at just over £1.7 million.

The BTP crime statistics below show the gradual decrease in offending since 2012 along with the rapid reduction around the time of the implementation of Operation Scandium and the new legislation.

	Cable Live	Metal Non-Live	Total	% change
2012	40	59	99	
2013	29	55	84	-15%
2014	25	32	57	-32%
2015	20	31	51	-11%
2016	11	7	18	-65%
2017(to 23/01)	0	1	1	n/a

In the 9 months prior to the commencement of Operation Scandium there were a total of 2,036 metal theft offences in Scotland, which reduced to 1010 post-Scandium (a reduction of 50.4%). However, as Scandium progressed and the resources/tactics had an effect, this decrease continued to improve and rates are currently at their lowest since the start of the analysis period:



A recommendation stipulated in the legislation was the creation of a National Database of Scrap Metal Dealers. The database which is planned to be easily accessible by the public will provide information on sites legally-registered and operating in Scotland. To achieve this BTP engaged with Scottish Government and SEPA and subsequently funded a bid for the design and development of the national register.

SEPA have successfully obtained the required data from all 32 Local Authorities across Scotland. Scottish Government has confirmed that funding for the first year of the register and that discussions are ongoing with SEPA to ratify the required secondary legislation, a draft of which should be available in the summer of 2017.

Bespoke training packages have also been designed and prepared by BTP for use in wider police training. The package on the new legislation has been made available to both forces with NCALT and Moodle options. This training will ensure an awareness and understanding of the new legislation and the requirements and responsibilities placed upon officers when dealing with the Scrap Metal Industry.



A structured programme of license checks are continuing with the new information obtained from these visits being submitted onto the Police Scotland Innkeeper Licensing Database. This will ensure ongoing compliance and identify licensing infringements for which the Innkeeper system will generate tasks that will be actioned by local Police Scotland Licensing Officers.

7. Air Weapons and Licensing (Scotland) Act 2015

The Air Weapons and Licensing (Scotland) Act 2015 came into force on the 1st of September 2016. The Act made a number of significant changes to the previous legislation relating to Metal Dealers. These changes aim to modernise and improve the existing licensing regime through more effective regulation of the industry and make it more difficult for metal thieves to dispose of stolen metal.



Cabinet Secretary for Justice, Michael Matheson, said: *“Metal theft can be dangerous and disruptive. We are proud to have delivered on our promise to bring in tougher rules to tackle metal theft with the Air Weapons and Licensing (Scotland) Act”.*

The key changes in the legislation are:

Removal of Exemptions

Local Authorities no longer have the power to issue Exemption Warrants. This will have the effect of ensuring that all metal dealers are subject to licensing requirements.

Removal of Retention Requirement

The current requirement to retain metal for a period of 48 hours after its acquisition is being removed (although Licensing Authorities may still impose this requirement on a case by case basis).

Cashless Payments

Metal dealers will be required to only pay for metal by either cheque or by electronic transfer to a bank or building society. If a dealer pays for metal by any other means then they will be committing an offence.

Record Keeping

The changes introduced amend the standard of record keeping that metal dealers will be required to follow. It specifies the information that dealers must record when they acquire, process or dispose of any metal and the form that such records should take; these changes include:

- Dealers are required to retain records for a period of at least 3 years from the date that the information was recorded or the document obtained.
- Records will require to be kept for each place of business a dealer operates from.
- There is a new standard for identification of customers which assists in establishing a person's identity i.e. name and address e.g. passport, driving licence, residency permit, bank statement etc.
- It will be an offence to fail to comply with the record keeping requirements and the new Act amends the existing offence in relation to providing false or misleading information.

8. Post Legislation activity

Since the legislation came in to force, operational activity has continued with a concerted campaign taking place in December 2016. Already there are enquiries ongoing as a result of intelligence and information received from within the Scrap Metal Industry particularly around car breakers that are currently under investigation by dedicated Operation Scandium officers.



Overall, the legislation has been well received by the industry with a high level of compliance and understanding shown during visits. Industry acceptance of the legislation can be demonstrated by the Crimestoppers campaign and legislative launch taking place in a Scrap Metal Dealers yard on 1st September 2016, something that simply would not have happened pre Scandium.

Some concern has been raised by smaller yards that on site cheque cashing has been adopted by several of the bigger companies. Although not in the spirit of the legislation there is no illegality in exercising this option and the company being used (Cheque Exchange Ltd) are fully endorsed by BMRA. Recyclers who adopt this regime are required to be registered with HMRC as a money business and are subject to Know –Your –Customer (KYC) codes. Arguably more demanding in terms of regulation than that introduced under the Air Weapons Licencing (Scotland) Act 2015.

9. Looking forward

Although not as prevalent as it has been, incidents of metal theft still occur across Scotland and remain a challenge for Police, industry (in particular the railway and utility companies) and local communities across Scotland.

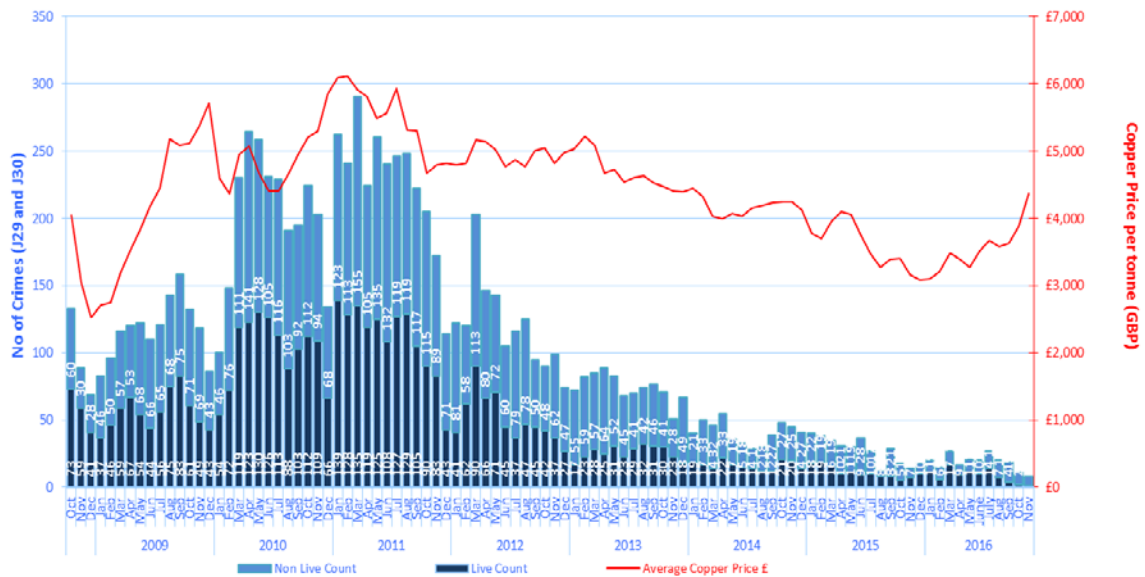
A single theft of a minimal amount of cable can cause considerable disruption to businesses and local communities and can have significant financial implications (e.g. Greenhill Junction where two minor cable thefts cost Network Rail over £270,000) what BTP refers to as the 'ripple effect'. Factor in cancelled trains and missed business appointments, family celebrations or simply being late for work and these costs can escalate considerably. These figures, however do not fully demonstrate the associated impact to business and communities nor do they quantify the associated cost or disruption.

Theft of valuable metals from properties and infrastructure continues to be a worldwide problem and businesses are bearing the brunt of the cost. According to a specialist security contractor, where metal is stripped to be re-sold by criminals, the value of the damage caused when it is removed far exceeds that of the commodity stolen. It is estimated that repair costs can be as much as 50 times the value of the metal in some cases.

The overall impact of metal theft can have a ripple effect where a single theft can have considerable cost implications and a massive impact to communities and businesses that are difficult to quantify or measure although recent research has indicated that metal theft still costs the UK an estimated £220 million per annum.

The table below depicts an ongoing reduction in metal theft since it peaked in 2011 and how frequency of offending correlates with the price of metal. Recent crime analysis using BTP crime data shows that between January and November 2016 there had been a combined total of 205 offences, with an average copper price of £3,551. This was lower than the combined total of offences (312) for the same period last year when the average copper price was £3,639. This suggests as the average price of copper has decreased, so has the total offences.

Cable / Copper Theft Comparison with Trade Market Trends (01/10/2008 to 30/11/2016)
 (Source: London Metal Exchange)



Pan Pacific Copper, Japan's biggest copper smelter, state it expects copper prices to rise to \$5,200 (or £4,184) per tonne in 2017 and \$5,500 (or £4,425) per tonne in 2018, as the global copper market will likely turn to a shortage next year.

In the last six months, on average the price of Copper has begun to rise, therefore there is a potential risk of metal theft offences increasing.

10. Conclusion

Operation Scandium has demonstrated the effectiveness of multi-agency operational deployments and the value of concerted industry engagement. The approach has delivered positive results on the frequency of offending and associated cost across Scotland.

Ongoing success can be maintained with a continued multi-agency approach to operational deployments and information sharing which would identify emerging trends and non-compliance.

The predicted rise in international metal prices could result in increased offending. The steps taken during Operation Scandium will mitigate against some of this increase. However the risk reward ratio is heavily influenced by the reward – criminal or otherwise.

For the thief - the (cash) benefit to be realised from this crime-type compared to other crime types and for the dealers, who can become corrupted as discussed earlier on in the report the reward of increased volumes and (un-taxed) profit by the reintroduction of cash trading as a direct consequence of reduced enforcement activity.

11. Glossary

BMRA – British Metals Recycling Association

BT – British Telecom

BTP - British Transport Police

DVSA – Driving and Vehicle Standards Agency (previously VOSA)

DWP – Department of Work and Pensions

HMRC – HM Revenue and Customs

HOIE – Home Office and Immigration Enforcement

NPCC – National Police Chief Council

SBRC – Scottish Business Resilience Centre

SEPA – Scottish Environmental Protection Agency

SPEN – Scottish Power Energy Networks

SSE – Scottish and Southern Energy

REPORT TO: Licensing Sub-Committee

MEETING DATE: 14 September 2017

BY: Depute Chief Executive, Partnerships and
Community Services

SUBJECT: Levenhall Fairground

1 PURPOSE

- 1.1 To provide members with an overview of the public consultation exercise conducted with local residents and stakeholders in the Levenhall area of Musselburgh in relation to a proposed granting of temporary entertainment licences to operate future commercial Fun Fairs / Fairgrounds at the site.

2 RECOMMENDATIONS

- 2.1 That members note the content of the report when considering applications for future Temporary Entertainment Licences for Fun Fair / Fairground operation at Levenhall, Musselburgh

3 BACKGROUND

- 3.1 The site at Levenhall, Musselburgh is an area of generally grassed open space with unbound vehicle access roads bordered to the west and south by Musselburgh Racecourse and Musselburgh Old Course Golf Course, south and east by residential properties in Hope Place and Ravenheugh Road and to the north by Levenhall Links; a Special Protection Area and Site of Special Scientific Interest (SSSI) for habitat, biodiversity and conservation.
- 3.2 For an unrecorded but seemingly significant period the site was let out for Fun Fair / Fairground operation up until 2003 when, despite efforts to mitigate the outcomes, significant incidences of antisocial behaviour affecting neighbouring properties, the golf course and racecourse led to the site being formally removed from the approved list of bookable sites by way of a Cabinet decision.

- 3.3 Since 2003 a number of approaches have been made by Fun Fair operators to the Council to consider reversing this decision based on assurances of appropriate stewarding to mitigate anti-social behaviour and this resulted in the granting of two temporary Entertainment Licences for 8 – 15 April and 27 April – 1 May 2017 as a trial.
- 3.4 Consistently, Council officers have highlighted that Fun Fair operators have been able to demonstrate they are capable of running a well managed and generally incident free operation within the confines of the actual Fun Fair site. However, the concerns arising from reported antisocial behaviour, traffic, noise, litter and damage to property occur outwith the confines of the operating site and affect the neighbouring households and amenities.
- 3.5 Following on from trial operation of the site in April / May 2017 Officers noted any recorded concerns from neighbouring stakeholders and drafted out a site specific set of conditions that could potentially mitigate any concerns arising and that future operators would be required to work to. Those conditions along with a layout plan and covering letter (Appendix A) were hand delivered to all households immediately bordering the site along with Musselburgh Old Course Golf Club, Musselburgh Racecourse, Musselburgh and Inveresk Community Council, ELC Countryside Services and Friends of Levenhall Links. At time of preparing this report formal responses have been received from
- Musselburgh Racecourse
 - Musselburgh Old Course Golf Club
 - Musselburgh & Inveresk Community Council
 - ELC Countryside
 - The RSPB
 - 39 Individual or collective residential address responses from households representing most of the addresses in the immediate area
- Individual submissions are attached as Appendix B & C
- 3.6 In terms of the Racecourse, their management team have advised that they would object to a fun fair being in situ on a race day because it (The Fun Fair) would pose a safety risk to horses and jockeys, would cause issues with access and egress and potentially would result in the British Horseracing Authority cancelling a race meeting (Appendix B)
- 3.7 ELC Countryside and the RSPB collectively expressed concerns about potential detrimental impact on wildlife within the neighbouring Levenhall Links and ELC Countryside reported a notable spike in antisocial behaviour during occupancy of the Fun Fair from youths gathering in the SSSI area, setting a number of fires in the site, a break in to an ELC

vehicle, theft and damage of Scottish Power equipment, new tree planting being destroyed, broken glass bottles across the site and amenities such as bins and public safety equipment being destroyed, all of which will have a replacement cost associated. (Appendix B)

3.8 Neighbouring households wrote to advise that they had convened an open meeting to discuss the proposal and submitted a detailed list of concerns (Appendix C). The key points noted in their submission include;

- Households already suffer detriment from traffic management and other restrictions imposed on them to facilitate Edinburgh Marathon, East Lothian Half Marathon, HTA Festival, Big Nature Festival, and regular race meetings
- Incidences of damage to property increased during periods of operation of a fun fair in the area– vehicles and buildings
- Problems with blocked access because of fun fair attendee cars being indiscriminately parked across driveways
- Traffic congestion at junctions
- Additional volumes of litter in the area including in private gardens
- People urinating in public places
- Youths under the influence of alcohol (Presumed) gathering in the area and causing noise disturbance, fear and alarm to residents
- Stewards deployed by operators during the two trials had been “young and inexperienced”
- Issues referred to above not having been experienced in the area since 2003 when the area was last used for a fun fair.
- Additional noise both from operation of the fun fair and activities of operators late at night while setting up and dismantling their equipment
- A statement that any stewards deployed by the operators should be licensed to Security Industry Authority standard

3.9 Musselburgh & Inveresk Community Council responded by recognising that there was demand from the community for a fun fair in Musselburgh but also recognising the volume of concern from neighbouring residents of the Levenhall site. Their advice was to consider approving a further trial week of operation when the fun fair would be strictly monitored and stringent assurances (presumably in relation to applying the operating conditions) given to the Council by the organisers.

- 3.10 Musselburgh Old Course Golf Club responded only by way of referring to their original complaint lodged on 13 April 2017 in relation to the trial occupancies. They did not offer a view on the viability of the proposed operating conditions. The Council's Amenity Services team who are responsible for grounds maintenance of the golf course did though record an increase in the theft and vandalism of course furniture such as flags, tee markers etc
- 3.11 Police Scotland advised that 5 calls were made to them in relation to antisocial behaviour in proximity of the fairground but with a caveat that the area is subject to ongoing youth related issues at times. ELC Safer Communities Team recorded no calls specifically relating to the Levenhall area and no perceived spike in general contact over the period of the April trial licences.
- 3.10 In terms of considering further use of the site for fun fair occupancy the proposed Site Specific Operating Conditions (Appendix A) could be further amended to address some of the concerns listed by consultees but the reported incidences of antisocial behaviour occur beyond the boundary of what an operator could reasonably and effectively steward. The specific comment from the Racecourse relating to no occupancy of the site during race meetings would result in 27 days spread across the year when the site could not contain fairground equipment. Traffic management could be controlled by way of an operator applying for appropriate parking and access controls by way of a Temporary Traffic Regulation Order but this needs to be considered in relation to adverse comments about restrictions already applied to cover a range of other events.
- 3.11 The majority of responses received are clear in their objection to opening up of this site for fun fair use in future and, while some responses suggested amendments to the proposed operating conditions that would perhaps further mitigate their respective concerns, the overall majority of community and stakeholder responses object outright to this proposal.

4 POLICY IMPLICATIONS

- 4.1 There are no policy implications associated with this report.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does have an impact on the local community and environment which could be considered to be detrimental.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – Letting of this site for Fairground occupancy would only generate an estimated £2,000 - £2400 based on 2 x 10 day operating periods for a medium fair.

6.2 Maintenance staff at the golf course record an increase in loss of golf course furniture which has a revenue cost attached to its replacement, Staff responsible for maintaining the adjacent SSSI have reported costs associated with making good damage to that area and there exists potential for local households to hold the Council liable for any damage to their property occurring during periods of licensed fun fair occupancy.

6.3 Personnel - None

6.4 Other - None

7 BACKGROUND PAPERS

7.1 None

AUTHOR'S NAME	Stuart Pryde
DESIGNATION	Principal Amenity Officer
CONTACT INFO	Tel: 01620 827430 spryde@eastlothian.gov.uk
DATE	12 August 2017

Our Ref: LC/20/9
Your Ref:
Direct Line: 01620 827430

Date: 30 May 2017

By Hand
2 – 40 Ravensheugh Road & 1 – 16 Hope Place
Musselburgh

Dear Householder

FAIRGROUND SITE – LEVENHALL, MUSSELBURGH

The Council has for a number of years been in receipt of requests from Fairground Operators to consider opening up the Levenhall site for use for a fairground, the site having been previously removed from the approved list in 2003 because of issues of detriment to local households and the amenity of the golf course and race course facilities. There also seems to be demand from the wider community to provide a fairground site within the Musselburgh area and this demand was underpinned by the levels of public attendance at the two recent trial licensed occupancies earlier in the year.

Having considered feedback from local residents, golf and racecourse management a set of specific operating conditions has been drafted out along with a site plan. The aim of these conditions is to try and address any concerns that were raised with the Council during the recent trials and to determine if it would be appropriate to offer further operating licenses.

Key to the list of conditions are arrangements to adequately control vehicle and pedestrian movements to and from the site, limit noise, provide stewards to control antisocial behaviour on the periphery of the fairground site, prevent operation during specific golf competitions and race meetings and place an onus on operators to provide a drinking water supply on site. The other conditions listed are in response to other comments received during the trial occupancies and can be added to if other specific concerns are highlighted as a result of this consultation.

If further licenses are granted to operators to run a funfair on the site, specific consideration will be given to limiting the annual number and timing of these licences. Traditionally the Council grants licenses for 1 or 2 fun fairs per year on its other approved sites and these are normally restricted to between the months of April and September with a reasonable time spacing between licences and taking advantage of lighter evenings to help mitigate any antisocial behaviour that may arise.

I would now welcome your feedback on the draft operating conditions for the site and ask that any comments you may have are received no later than 11 August 2017. Any comments received will then form the basis of a recommendation for the future use of this site for fairground operation to be presented to Licensing Committee in advance of any future licence applications.

Yours faithfully

Ray Montgomery
Head of Infrastructure.

Reproduced by permission of Ordnance Survey on behalf of HMSO. (C) Crown Copyright and database right 10 May 2017. All rights reserved. Ordnance Survey Licence number 100023381.

• = Steward Positions

Maximum Extent of Showground
Inc Residential Caravans

Public Parking if Required

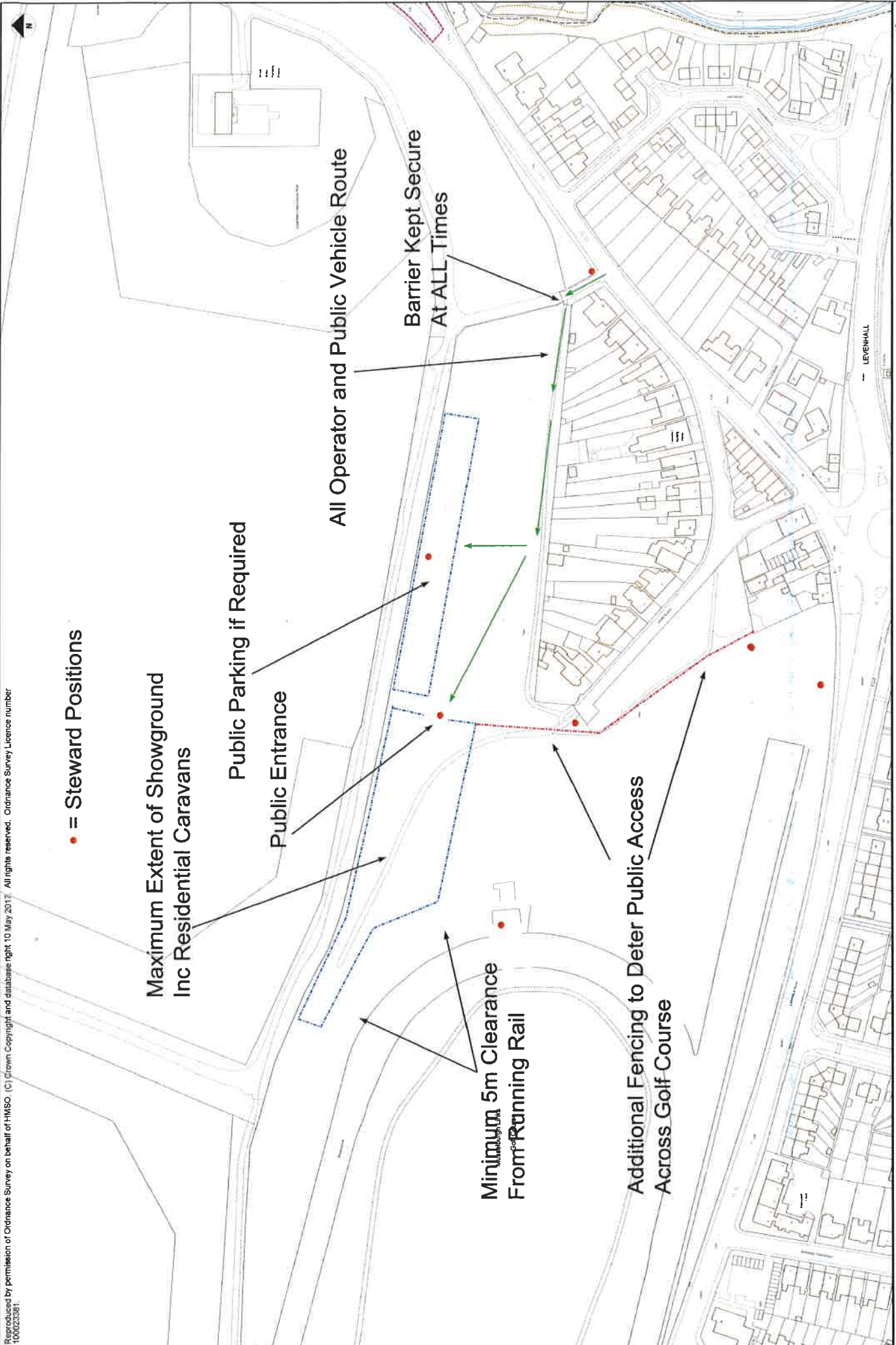
Public Entrance

All Operator and Public Vehicle Route

Barrier Kept Secure
At ALL Times

Minimum 5m Clearance
From Running Rail

Additional Fencing to Deter Public Access
Across Golf Course



1:1000
10 May 2017

User: Stuart Pryde

East Lothian
Council

EAST LOTHIAN COUNCIL

LEVENHALL FAIRGROUND

SITE SPECIFIC SET UP AND OPERATING CONDITIONS

Fairground Operators who have been granted a temporary entertainments licence to operate a Fair Ground at Levenhall / Hope Place, Musselburgh are required to comply with the following operating conditions;

The attached map shows the full extent of the occupancy footprint and general arrangements for operator and public access to the site, fencing to discourage pedestrian movement across the adjacent Golf Course and minimum stewarding positions to mitigate and control antisocial behaviour outwith the immediate operating area. Operators are required to meet the general arrangements detailed within that map and specifically comply with the following conditions;

1. All vehicle movement to and from the site by operators during set up, breakdown and day to day movements are to be via the barrier and roadway to the east of Lothian Villa
2. Any requirement for public car parking during the period of operation will be via the route described in point 1.
3. The extent of occupancy will be limited to a small or medium fun fair as set out in the East Lothian Council Charges Book limiting operation to a maximum of 20 combined rides and side shows / stands / food outlets
4. Operating times will be limited to 17:00 to 20:30 Mon – Fri and 14:00 – 20:30 Sat / Sun
5. The number of licenses granted for this site will be limited to X per year and these / this will be during the month(s) of X and Y – *Annual frequency and timing to be confirmed following community consultation*
6. The stewarding positions will be staffed 1 hour before commencement and 1 hour after each period of operation. Stewards will be vigilant towards any acts of anti-social behaviour causing detriment to quality of life for neighbouring households or damage to property and intervene to a non-physical appropriate level of deterrent according to the circumstances or call the Police to attend if that intervention is impractical.
7. The fairground operating area will be completely enclosed with Herras type fencing and this will be kept in place and secure for the duration of the occupancy.
8. A further section of Herras type fencing will be erected as shown on the attached map to discourage attendees from cutting across the golf course. Stewards will be deployed as shown to maintain the security of this fence.
9. Adequate signage will be placed on Ravensheugh Road to direct visitor vehicles and pedestrians via the entrance to the east of Lothian Villa
10. On first occupancy the operator will deliver a letter to each household on Ravensheugh Road and Hope Place that abuts the site providing a contact telephone number for a responsible person who will be on site for the duration of the occupancy.
11. The site does not currently have a potable water supply and use of the hydrant in Hope Place is not possible because of the need to maintain uninterrupted vehicle access for householders. Operators will therefore make alternative arrangements to have a portable drinking water supply delivered by tanker or similar method.

12. On the occasion of each occupancy, a specific restriction will be added to these conditions and notes the dates and times of horse race meetings and golf club competitions and prevents operation of the fair ground during these periods.
13. Music and PA notifications will be limited to xx db for the duration of the occupancy.
14. Adequate portable toilets will be provided on site for the duration of occupancy according to the anticipated number of public attendance and these toilets will be adequately serviced, cleaned and all waste removed from site by licensed contractor prior to final departure from site of the operator.
- 15.

Pryde, Stuart

From: Club Secretary <mocgc@outlook.com>
Sent: 08 August 2017 10:39
To: Sills, Ian; Pryde, Stuart
Subject: Fw: Golf club

Ian,

Please see below the original complaint sent by the Club Chairman (Stevie Hill) via email to East Lothian Council on on 13th April 2017. I recall he sent a copy to you on 17th April 2017. The issues and concerns are well documented whilst this site is used for such activities.

Stuart,

This email was sent to ELC on 13th April 2017, with a response sent to MOCGC via email from ELC (Gary Gunn) on 25th April 2017. The issues and concerns are well documented whilst this site is utilised for such activities.

Regards,

Billy Alexander
 Honorary Secretary
 MOCGC

From: steven hill [REDACTED]
Sent: 16 April 2017 12:52
To: mocgc@outlook.com
Subject: Fwd: Golf club

----- Original Message -----

Subject: Golf club
From: steven hill <[REDACTED]>
Sent: Thursday, 13 April 2017 21:03
To: "environment@eastlothian.gov.uk" <environment@eastlothian.gov.uk>
CC:

It is with dismay I find myself once again writing to East Lothian council .On Sunday the 10th of April Musselburgh old course golf club held their league cup competition which is held on 2 consecutive Sundays .After assurances from councillor John Caldwell that the funfair wouldn't start till 5pm after all our members had passed the 5th hole imagine our shock and surprise when the players out on the course reported it had started at 2pm. Three off our members who asked a group off young lads to stand aside were told to "Fuck off" while a further 2 had their golf balls stolen resulting in the committee abandoning the competition due to the safety off our members and the public who were in danger off being hit with a golf ball. Once again the council have shown a total disregard for our members and the safety of the public .Could you tell me who granted the funfair license and if they were aware it would coincide with the golf or if the funfair management totally disregarded the times allocated. We also had a party of visitors come into our clubhouse who were astounded and annoyed that the starter had taken

the booking and had not informed them that the course would be overrun by people heading for the funfair and enquired who would be held responsible if someone was hit by a ball. On closing this is not the first time we have sent a letter regarding the safety of the public and our golfers but it seems the council do not care or is someone not doing their job .A few off our members will be writing to the press to draw their attention to the lack off safety measures put in place whether it be on Sunday or regarding the racecourse. I await your reply and hope it doesn't take 10 months like the last time
Yours Steven Hill Chairman of Musselburgh old course golf club

Pryde, Stuart

From: Margaret Stewart [REDACTED]
Sent: 10 August 2017 21:39
To: Pryde, Stuart
Subject: Proposed Fairground, Levenhall, Musselburgh

Dear Stuart,

Please see below the response to the above from Musselburgh & Inveresk Community Council

Fairground Site – Levenhall, Musselburgh

The Community Council has consulted with residents from various areas of the town regarding the above and whilst there is no doubt that some of the residents in Hope Place do not want the fair to go ahead there are others in the town who would like their children to be able to attend and enjoy the shows locally.

With this in mind, and also taking into consideration the wildlife in the area surrounding the proposed site we would like to suggest a trial of one week in the year whereby the fair would be strictly monitored and stringent assurances given to the Council by the organisers.

I Tait
On behalf of MICC

MacNeil, Janice

From: Pryde, Stuart
Sent: 01 August 2017 14:08
To: MacNeil, Janice
Subject: FW: Fairground at Hope Place

Needing this printed as well please.

From: [REDACTED] Nick
Sent: 01 August 2017 12:20
To: Pryde, Stuart
Cc: [REDACTED]
Subject: Fairground at Hope Place

Stuart,

In his absence Neil asked me to respond with views on the recent trial of hosting 2 fairgrounds on the land north of Hope Place.

There was a noticeable spike in anti social behaviour over at Levenhall Links during the Fairgrounds and for a couple of weeks following them. Given the Bird Reserves SSSI designation and inclusion in the Firth of Forth SPA it is afforded a level of protection and any changes in land use adjacent to it and likely to have an adverse affect on the Reserve may require permissions from Scottish Natural Heritage.

Below is a list of anti social behaviour that took place during the fairground trials and a couple of weeks following when there was a much higher level of youths on site in the evenings than has previously been noted.

- 4/4 Work vehicle broken into, window smashed and personal bag stolen whilst parked next to fairground.
- 5/4 Large Fire in Bird Reserve Eastern Hide
- 5/4 Broken bottles on access road adjacent to fairground. Approx 10 bottles
- 9/4 Large fire to clean up next to boating pond containers
- 13/4 Several abandoned tents left by boating pond. 7 bags worth of litter to clear
- 17/4 Pump house compound broken into. Timber and other materials stolen report to Scottish Power
- 24/4 Two large separate fires in field south of boating pond
- 1/5 Fire round boating pond
- 5/5 large fire by container
- 9/5 just over 400 tree tubes and stakes pulled out and damaged trees
- 9/5 Large fire site by container where tree tubes and stakes have been burned
- 18/5 Find a large den in woodlands. This is where the missing timbers have been going to construct the den
- 19/5 Den found burning (am) Fire Brigade Called
- 19/5 Big Fire south of boating pond. Race course dog poo bin ripped off its hinges and set alight along with several tyres
- 22/5 fire with melted bins by container; several damaged trees by throw line (missing) fire by throw line; fire on bund behind containers, broken glass everywhere; grass fire opposite pump house; fire middle of south field; fire far side of boating pond (8 incidents occurred over that weekend, full day's work to rectify)

22 incidents in total

Since that period has passed I have to date only 5 anti social incidents on site.

A particular concern is inebriated youths leaving the fairground. Often ejected by staff according to local residents. They make their way over to Levenhall where groups of up to 150 youths were noted gathering during the evenings.

Local dog walkers told me the site had become "a no go zone in the evenings" . Bird watchers complained that the bird hides were filled with rowdy youths drinking and smoking cannabis causing disturbance to the birds in the protected SSSI.

These are my concerns. I know the Golf Course and Racecourse both had issues during the same time period.

As an alternative venue would the strip across the river near where the skateboard ramp is be big enough to accommodate a fairground? It would cause less disturbance to wildlife and local residents as well who I gather are far from happy with the prospect of the area being designated as a site for a fairground.

Nick

Pryde, Stuart

From: Fraser, Mike [Mike.Fraser@rspb.org.uk]
Sent: 02 August 2017 16:30
To: Pryde, Stuart
Subject: Proposed fairground at Levenhall Links, Musselburgh

Dear Mr Pryde

It has been brought to my attention that East Lothian Council is considering granting permission for a fairground to be sited at the east end of Levenhall Links. The fairground would be in an area of amenity grassland/open ground just north of Hope Place and would likely be operational at times between April and September.

A number of people have expressed concern that the fairground will have a detrimental impact on the wildlife of the area and have asked for RSPB Scotland's opinion on the matter. I have explained to my correspondents that the specific site itself, comprising as it does predominantly open, managed grassland, is not known to be of particular importance for wildlife. Furthermore, a number of the issues involved, such as anti-social behaviour and traffic congestion, are generally outwith the remit of RSPB.

Nevertheless, the site falls within a broader area that is of considerable importance for its biodiversity interests, especially birds. It is also an important recreational area for the likes of birdwatchers who seek the opportunity to pursue their hobby in a quiet and undisturbed environment. The nearby 'wader scrapes' are designated a Special Protection Area (SPA) under European Legislation. This designation covers wintering birds, but many of those winter visitors would still be on the site in April before they move north to their breeding grounds. Similarly, August and September are the peak arrival months for those species that do spend the winter here. The wader scrapes and associated nearby intertidal habitats are, therefore, of major importance to the birds at these times of year and should remain as undisturbed as possible.

Efforts have also been made to have Levenhall Links designated a local nature reserve by East Lothian Council. RSPB Scotland would strongly support such a designation. The presence of a fairground, even temporary, on part of the site is unlikely to be at all compatible with this aspiration and could compromise attempts to have the whole site thus declared.

The broader area of Levenhall Links is largely open space and already has many uses, ranging from informal recreation to the race meetings. I also accept that RSPB's 'Big Nature Festival' took place there over two weekends in the last two years. I would suggest, however, that because of their nature and short duration, these are not as potentially disturbing as a fairground.

We would, therefore, wish assurances that biodiversity interests are taken into account when considering this proposal and the increase in unmanaged visitor numbers and associated activities that this will incur. If the fairground is consented by your Council, then appropriate steps should be taken to ensure that it has no negative impacts on the birds and other wildlife of the broader site.

Please contact me if you require any further information.

Kind regards

Mike Fraser
Conservation Officer

rspb.org.uk

Let's give nature a home in Scotland

Pryde, Stuart

From: Farnsworth, Bill
Sent: 17 July 2017 16:04
To: Pryde, Stuart
Subject: RE: Racecourse Meeting

Hi Stuart,

Based on the draft plan sent to us we would object to the fun fair being in situ on a raceday. This is because it would pose a safety risk to horses and jockeys and would cause issues with access and egress to the racecourse. The risk to horses and jockeys would result in the British Horseracing Authority potentially cancelling the racemeeting.

I hope you have a good holiday.

Regards,

Bill.

Bill Farnsworth
Chief Executive

Musselburgh Racecourse



T: 0131 665 2859

M: [REDACTED]



Click here to view our fixture list and purchase tickets:

<http://www.musselburgh-racecourse.co.uk/buy-tickets-online.asp>

**FRIDAY NIGHT AT THE
 RACES**

**JULY
 14TH**

**EARLY
 BIRD
 PRICES
 AVAILABLE UNTIL
 06 JULY**

Click here to book tickets
 online and **SAVE!**



**MUSSELBURGH
 RACECOURSE**

From: Pryde, Stuart
Sent: 17 July 2017 15:08
To: Farnsworth, Bill <bfarnsworth@eastlothian.gov.uk>
Subject: RE: Racecourse Meeting

Bill,

While that would probably have been useful I've got a full diary this week and then go on leave. Accordingly, along with all the other consultees can I ask that you formally record any comments you have in this regard along with suggestions and further controls you may consider could make use of the site for fun fairs work and submit those to me by the closing date of 11th Aug.

Stuart Pryde

Principal Amenity Officer
East Lothian Council
01620 827430
spryde@eastlothian.gov.uk

From: Farnsworth, Bill
Sent: 17 July 2017 14:06
To: Pryde, Stuart
Subject: Racecourse Meeting

Hi Stuart,

Would you like to have a site meeting to look at the fun fair working alongside the racecourse? I believe we need to so that we can establish the boundaries to make this feasible.

I look forward to hearing from you.

Regards,

Bill.

Bill Farnsworth
Chief Executive

Musselburgh Racecourse



T: 0131 665 2859

M: [REDACTED]



Click here to view our fixture list and purchase tickets:

<http://www.musselburgh-racecourse.co.uk/buy-tickets-online.asp>

FRIDAY NIGHT AT THE
RACES

**JULY
14TH**

EARLY
BIRD
PRICES
AVAILABLE FROM
06 JULY

Click here to book tickets
online and **SAVE!**



**MUSSELBURGH
RACECOURSE**

Pryde, Stuart

From: Montgomery, Ray
Sent: 10 August 2017 14:29
To: Pryde, Stuart
Subject: FW: Proposal - funfair siting at Hope Place Musselburgh

Further correspondence Stuart

Ray

From: JOHN [REDACTED]
Sent: 10 August 2017 12:55
To: Montgomery, Ray; [REDACTED] Mackie, Katie
Subject: Proposal - funfair siting at Hope Place Musselburgh

Dear Sir,

I refer to the foregoing and in addition to having previously signed a neighbourhood petition against the proposal, I would now like to take the opportunity to reiterate my strong objection to the suggestion.

I am a resident of Ravensheugh Road Musselburgh and have stayed happily in my current house for some thirty eight years. That said, over the piece, myself and my neighbours have historically endured extremely anti - social (bordering upon riotous) behaviour, emanating from the one time Mrs. Foreman's public house and indeed from the previously established funfair site on the common ground, adjoining Musselburgh race / golf course at Hope Place Musselburgh.

Since the demise however of Mrs. Foreman's pub and the perfectly appropriate council refusal to licence funfairs on the site (due to I believe to crimes and anti social behaviour committed by many of the funfair clientele), life in this small residential part of Musselburgh has been, as it should be, much more peaceful .

You will of course be aware that due to our geographical position, we are subject to considerable inconvenience and noise caused by the annual Edinburgh Marathon and similar events. Despite said inconvenience , I believe that most residents (affected also I might add by substantially increasing council rates), merely suffer such occasions in silence, for reasons of being charitable and maybe not wanting to make a fuss.

Mr. Montgomery, I hope that you will agree with me, that the proposal to re-introduce funfairs to this area is an extremely retrograde step , which indeed is supported by consequential trouble from the recent 'trial ' (funfair) events . It is also worth mentioning that I harbour considerable concern regarding the process leading to the decision to allow such 'trial ' events , which APPEARS to have taken place with no transparency or community discussion whatsoever.

Whilst I am thankful that during the 'trial' period, my property was not subject to incident, I am aware that many of my neighbours were indeed victims of crime or disturbance, apparently perpetrated by funfair 'clientele' .

I did however witness a huge increase in vehicular congestion in the vicinity Hope Place Musselburgh (which as you know is really only a narrow cul-de-sac, wherein there is sited a large old people's home) , I witnessed greatly increased noise from gangs of young people , both en route to and dispersing from the events and I witnessed a few ' stewards ' , seemingly employees of the funfairs, attempting to shepherd said gangs of youths from the funfair site.

It is clear Sir, that if such gang behaviour is deemed so unacceptable within the environs of a funfair, to result in expulsion therefrom, it is most certainly unacceptable in the adjoining streets and public areas .

Mr. Montgomery, I greatly appreciate your help in this matter and I trust that you will agree with me, that Hope Place Musselburgh is simply not the place for a funfair. There are many other sites in East Lothian (Meadowmill , or the grass area to the immediate west side of the former Cockenzie Power Station come to mind) which may, upon consideration be deemed far more suited to such events.

Faithfully yours,

Pryde, Stuart

From: [REDACTED]
Sent: 18 July 2017 15:39
To: Pryde, Stuart
Subject: RE: Levenhall Fairground

Any thanks for your prompt reply. We 'll look forward to hearing of progress in due course.
Regards,
Mandy

From: Pryde, Stuart [mailto:spryde@eastlothian.gov.uk]
Sent: 18 July 2017 09:23
To: [REDACTED]
Subject: RE: Levenhall Fairground

Good morning [REDACTED] and thanks for your feedback.

The position of fencing isn't cast in stone and was really just plotted out to show the general arrangement. I fully agree that it would have to be positioned in such a way as to avoid detriment to the golf course and also allow for immediate residents of the area to access their normal walking routes.

My intention was for the fence to follow tight along the edge of the tree belt and I thought in doing so it shouldn't interfere with the golf course. I'm happy though to look at that in detail should the site be licensed for fair grounds and ensure the actual positioning of the fence does not interfere with the golf course. Prior to preparing my report for consideration by Licensing Committee I will visit the site again, redraft the map with more detail and carefully position the fencing to take account of any local features and amenities.

I hope the foregoing make sense and satisfies your concerns?

Regards, Stuart

Stuart Pryde
Principal Amenity Officer
East Lothian Council
01620 827430
spryde@eastlothian.gov.uk

From: [REDACTED]
Sent: 17 July 2017 17:07
To: Pryde, Stuart
Cc: [REDACTED]
Subject: Levenhall Fairground

Stuart,
We had a brief chat today about the above. Our main area of concern centres on the proposed fencing from Ma Forman's which appears to cut directly across or in front of the new 5th Tee. Can you clarify whether in fact that is the case?
Regards,
[REDACTED]

Email Disclaimer - East Lothian Council

[REDACTED]

1st August 2017

FAO Ray Montgomery
Head of Infrastructure
East Lothian Council
John Muir House
Haddington EH41 3HA

Your ref LC/20/9

Dear Mr Montgomery

Re – Fairground Site – Levenhall, Musselburgh

We are responding to your consultation letter dated 10th July 2017 requesting feedback to be used as a basis for your recommendation to the Licensing Committee.

Throughout the two trial occupancies ("**Service Operators**"), the local community experienced acts of antisocial behaviour carried out by those attending ("**Services Users**") including vandalism, drunken behaviour, Service Users behaving in a threatening manner at bus stops and street corners. The local community experienced excessive littering of recreational areas, local roads, streets and private gardens. There was ineffective management of traffic resulting in parking chaos with private driveways blocked and dangerous vehicle speeds witnessed.

The Service Operators' stewards were unlicensed (no SIA badges on show) therefore untrained and ineffective in their duties as "an event organiser in dealing with all aspects of Crowd Management" (stated by the *Health and Safety Executive*).

The Service Operators' vehicles and equipment arrived/left the area at all times of the day and night. We experienced noise from generators and from the erection/dismantling of equipment until well after midnight.

Your proposed steps in the set up and operating conditions are severely inadequate and vague. There is no assurance that a full and compliant risk assessment will be carried out per Site Operator occupancy, there is no assurance that, at each occupancy, the Site Operator will supply stewards who are SIA licensed (*Security Industry Authority* – "individuals undertaking manned guarding activity at events will require an SIA licence").

Proposing to allow fairgrounds to use Levenhall Links goes against your Community Safety priorities as it will create hazards and nuisance to the local community while delivering little or no benefit. We are also extremely concerned that you seem to have not given priority to the care of vulnerable people within our local community (we have two care homes within Hope Place and Ravensheugh Road).

Please therefore note our **strong opposition to these proposals** and, as not all householders within Hope Place and Ravensheugh Road received your initial letter (despite that being stated in said letter) we would welcome any further correspondence by email to [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

[REDACTED]

Ray Montgomery.

Head of Infrastructure,

East Lothian Council,

John Muir House,

Haddington.

Dear Mr Montgomery,

Fairground Site – Levenhall Ref. LC/20/9

We have lived in Levenhall for 57 years.

Our [redacted] children enjoyed the excitement and fun in the '70's when the funfare came to Levenhall each Autumn.

Times have changed.

We who live here are proud of Levenhall's Triple SI status, awarded in recognition of the diversity of birds and other creatures which choose to live here or to visit this area.

On reflection, I believe that numbers of birds, animals and wildflowers have developed over time; since land reclamation, since the annual funfare ceased and since the dumping of fly ash was discontinued.

The Levenhall Links Area is beautiful now and is maintained to a high standard by ELC. It constitutes the green lung of Musselburgh and is used and appreciated by so many people.

As the population of Musselburgh increases so rapidly, we should be careful to protect the calm and peaceful haven that is Levenhall Links; so necessary for people and wildlife.

There is a great change in the behaviour of certain groups who are definitely attracted to the Funfare site.

As is stated in the submission sent in by "Friends and Neighbours of Levenhall", of which my husband and I are signatories, there was considerable damage and disturbance when the trials were held in April and May of this year.

On the stroke of 20.30, the Showground ceases to operate but some youngsters party on, resulting in damage to property, unruly behaviour around homes, around the lake, in the Hides and on parts of the Racecourse and Old Course..

Residents are aggrieved.

The Friends of Levenhall Links are seeking Local Nature Reserve status .

East Lothian Community Rail Partnership recently produced a very attractive Leaflet from which I quote:" Levenhall Links is a 134 hectare site which attracts a wide diversity of birds and other



Musselburgh,

EH21 7QB

31/07/17

per so obelate n'

wildlife. This provides a year round spectacle and the area is fast becoming Scotland's premier bird watching site."

It is easy to recognise the attraction of such a publicly visible site to a Showground Operator.

However, noise, increased traffic, movement of people; all are detrimental to the wellbeing of birds and animals.

Please Councillors, think beyond instant , short lived gratification for your constituents, Consider rather the wisdom of preserving the natural qualities of Levenhall Links, to benefit everyone.

Yours sincerely, [REDACTED]

[REDACTED]

Appendix B: Comment and Query Topics

Since similar topics crop up in different places within the proposed Set-up and Operation Conditions, we have grouped them under our own headings as below. Please respond to all points raised.

Site Map

- The fence-line needs clarifying. The map has no Key, and Boundaries and actual fencing are hard to tell apart. If all dotted lines denote fences, the Operating Area one is broken by one controlled point of access; what then should we make of a car-park zone with no access at all?
- Additional Steward positions need to be marked, as under "Stewarding" below.
- Para. 1 and 9 in the Conditions (see also "Signage") imply that **ALL** vehicle and pedestrian access will be by the gate to the east of Lothian Villa. If this is (hopefully) correct, the whole of Hope Place should be cross-hatched on the map and designated "Local Residential Access Only". See also important 4th point in "Barriers" below.
- It is not made clear what normal right-of-way pedestrian routes through the area are maintained during the events. Residents will not be able to use the path from Hope Place across to the golf-course to walk dogs etc. thanks to the additional fencing, but it appears they might still be able use the route over to the stile onto the Pond road and the Shinty Pitches. Clarification required.

Barriers

- "HERAS" is a Company name / brand. It does not indicate a particular type of fencing, since Heras UK. make everything from Playpark fencing to High-Security Compounds. What specific type is proposed?
- In para.7 of the draft Conditions, what is meant by "keptsecure"? Can "duration of the occupancy" be made more specific e.g. "from arrival of first vehicle to departure of last" (no doubt carrying the fencing in both cases)
- It has been suggested that the Council are proposing to pay for all fencing requirements. Is this true, and if so, why? The onus is surely on Operators to secure their own undoubtedly valuable equipment, and ensure the safe and controlled operation of the whole site. There is no reason why public money should go to facilitating anything that is an Operator's responsibility.
- One of the permanent installed barriers to the east of Lothian Villa is marked on the Map "...Kept Secure at ALL times". The other, next to the Villa wall, has a very substantial steel Height Restriction beam across it, yet the map and Condition para. 1 suggest this is the route Fairground vehicles *must* take. How is this to work? To get fairground vehicles into the designated area by this route, either they go through the "kept secure " barrier and along the pond road to the next Racecourse access gate, or some of the permanent boundary fencing will have to be removed. Please clarify the intentions on this, and re-draw them on the map.

Signage

- Paragraph 9 in the Conditions is welcome but inadequate. Siting for signage must give all traffic and pedestrians good advance warning that they *cannot* use Hope Place, rather than congestion arising when entry is prevented. Directions to the East entrance must be absolutely clear and not (as in one trial) pointing down Hope Place rather than away from it, or suggesting "1st Left" when it should have been 2nd left. Signs and stewarding at the trials were totally ineffective.

- Signage must not under any circumstance be fixed to private property without the owner's express permission being granted in advance. In writing.
- Any pavement-based signage must not impede normal safe passage of prams, mobility aids and scooters, blind pedestrians etc.
- Parking cones might be considered for the stretch of Ravensheugh Rd from Nos 12 to Levenhall Villa (inclusive), to prevent random visitor parking causing traffic disruption there.
- Fresh Council signage re. Byelaws on camping, fires, drinking etc. in the Levenhall Links public areas should be placed at all access points.

Stewarding

- Quality of stewarding at previous Fairs has been poor and ineffective. All need to be pro-active in dealing with the public, anticipating problems, and certainly not turning a blind eye to developing situations as has sometimes been noticed.
- Stewards should be S.I.A. registered to prove they have completed appropriate training. They should be clearly identifiable to the public and have communication links with each other and with a Co-ordinator to allow monitoring of potential antisocial behaviours, provision of first-aid and other public assistance, and timely involvement of Police / Emergency services if required. Will there be an agreement with Police Scotland to attend promptly to any requests for assistance?
- Duties: Advising everyone on approved routes into and out of the site, ensuring compliance, assisting in traffic management and litter control, preventing unruly or anti-social behaviour, protecting and assisting the general public at all times. Stewards' responsibilities should be specified in detail in the Operator Conditions, and advised to everyone alongside Contact info. (see "Accountability")
- Positions and Times of cover: The map fails to show Steward positions at either of the entrances to Hope Place from Ravensheugh Rd. These are essential to restrict vehicle and pedestrian movements to local residents and delivery or Emergency vehicles only. These two positions need to be manned from before first vehicle arrival for setup to last vehicle departure at strip-out. All day, and every day. The same stewarding, in shifts of course, would be well placed to monitor / prevent anti-social behaviour at the bus-stops, the local shop, and in the vicinity of the pub. Steward cover should be in place from 1hr before each period of operation and remain until a supervisor is satisfied that all public have left the area at the end of the day. (Conditions, para. 6)
- Patrols: In addition to the defined positions, we see a need for two Stewards patrolling the area between the Lothian Villa gate and the bottom of Hope place, along the back of the properties. This would be to supervise traffic movement and parking when appropriate, but particularly to guarantee protection to the rear of the properties until all public have definitely left the area. One further Steward should be allocated to cover the length of Hope Place, to ensure protection to the front of the properties should any public gain access to the area, and assist with any local vehicle movements.
- Supervision: At least one Supervisor should be patrolling all Steward positions and the areas between, to ensure staff are in the right place and doing the job effectively and consistently. This would also allow Stewards toilet breaks while the Supervisor takes over their role, ensuring stations are not left unmanned.

Litter Control

- Large litter bins should be placed around the site and along access routes, pointed to by large signs saying "Use the Bin!" or similar. These must be emptied as soon as *nearly* full (Do not wait for overflow!) and/or certainly at the end of each day. No bin must contain rubbish overnight; this will attract birds, foxes and possibly other vermin, and result in the scattering of contents. Any central collection container(s) should be of fully-enclosed type with well-fastened lid or doors for the same reason, and should be within the overnight-secured area.
- Separate from Stewarding staff, regular Litter Patrols should take place throughout Operating Hours, and beyond then until the site and all surrounding land and streets are cleared.
- Final uplift of refuse containers should be no sooner than the point when the site is completely tidy and the last of the Operator's staff are leaving, and at latest first thing the following morning. An on-demand uplift arrangement should also be in place in case containers become full during the event.

Noise

- Conditions Para. 13 indicates that the level of amplified sound will be capped. Unfortunately a decibel figure on its own is meaningless. Perceived volume of sound is affected by all sorts of things – temperature, humidity, wind strength and direction and not least the distance from source at which measurement is taken. The dB figure needs to specify a location, and the opinion of a qualified assessor taken into account as to impact of other factors. Properly calibrated equipment must be used for measurements.
- A lot of nuisance noise arises from unruly behaviour. Hopefully the control of access routes and vigilant stewarding will minimise this.
- We are particularly concerned about the potential impact of noise on vulnerable residents, and those whose daily lives and activities require a quiet environment. This must be considered.

Accountability

- The suggestion (Conditions para. 10) of a main Contact phone number for the site is very welcome. Can we suggest that its hours of availability be specified – ideally round the clock, but realistically from 8am to midnight during operation and from first arrival to last departure of staff on fit-up and strip-out days. It needs to be available to everyone living in or with businesses in the area, not just properties abutting the site. The nominated Contact needs to be a responsible person with clear authority for immediate action on stewarding and Police / Emergency Services involvement, not just a liaison contact passing messages. Alongside this information it would be useful to see contact details for a Council representative, any liaison officer nominated by Police Scotland, and a copy of Stewards' specified responsibilities.
- Who takes care of site re-instatement after the Operators departure? E.g. vehicle damage to the soft ground along the back of Hope Place as well as to the operating site itself, especially after wet weather. Is a deadline set for completion of such works?
- Who in each case employs the ancillary staff or Contractors, e.g. Fencing erectors, Stewards, Litter patrols, Drinking-water supplier, Waste Disposal, Toilet provision, Site reinstatement etc. To whom are they responsible?
- Who will handle compensation claims for property damage? Can a process be agreed now that deals with this in a timely and effective way?
- If the answer to any of the above is "The Council", are all costs re-charged to the Operators, and if not, why not? How does total outlay stack up against revenue, and can it be proved it is a cost-effective use of public funds?

- **Appendix C: Annotated copy of proposed Operator Conditions.**

LEVENHALL FAIRGROUND

SITE SPECIFIC SET UP AND OPERATING CONDITIONS

Fairground Operators who have been granted a temporary entertainments licence to operate a Fair Ground at Levenhall / Hope Place, Musselburgh are required to comply with the following operating conditions;

The attached map shows the full extent of the occupancy footprint and general arrangements for operator and public access to the site, fencing to discourage pedestrian movement across the adjacent Golf Course and minimum stewarding positions to mitigate and control antisocial behaviour outwith the immediate operating area. Operators are required to meet the general arrangements detailed within that map and specifically comply with the following conditions;

See our Topic "Site Map"

- 1. All vehicle movement to and from the site by operators during set up, breakdown and day to day movements are to be via the barrier and roadway to the east of Lothian Villa.**

See Topics "Stewarding", "Barriers" and "Signage"

- 2. Any requirement for public car parking during the period of operation will be via the route described in point 1.**

See Topics as above

- 3. The extent of occupancy will be limited to a small or medium fun fair as set out in the East Lothian Council Charges Book limiting operation to a maximum of 20 combined rides and side shows! stands / food outlets**

Acknowledged, but does not mitigate our concerns.

- 4. Operating times will be limited to 17:00 to 20:30 Mon — Fri and 14:00 — 20:30 Sat/Sun**

We believe that during the trials the finish was 20:00. Why has this changed?

- 5. The number of licenses granted for this site will be limited to X per year and these / this will be during the month(s) of X and Y — Annual frequency and timing to be confirmed following community consultation.**

*Can you confirm whether each license being referred to here is a site-specific Public Entertainments License for one event only with dates/times specified, or is it a Site License from the Council as landowners? We understand **both** are required. Is the Site license also a one-off? Is the application process via the same channels, and might it also be the subject of Community consultation, since it is probably even more relevant? Without it, a Public Entertainments license would seem to be useless.*

If after our Letter of Objection yet more community consultation is still proposed, we would wish to make further representations on Paragraph 5's topics and others.

6. The stewarding positions will be staffed 1 hour before commencement and 1 hour after each period of operation. Stewards will be vigilant towards any acts of anti-social behaviour causing detriment to quality of life for neighbouring households or damage to property and intervene to a non-physical appropriate level of deterrent according to the circumstances or call the Police to attend if that intervention is impractical.

Confirm that 1st sentence above should read "...from 1hr before....until 1hr after...", i.e. covering the whole period between those times, BUT see also our comment in "Stewarding"

7. The fairground operating area will be completely enclosed with Herras type fencing and this will be kept in place and secure for the duration of the occupancy.

See Topic "Barriers"

8. A further section of Herras type fencing will be erected as shown on the attached map to discourage attendees from cutting across the golf course. Stewards will be deployed as shown to maintain the security of this fence.

See Topics "Barriers" and "Stewarding"

9. Adequate signage will be placed on Ravensheugh Road to direct visitor vehicles and pedestrians via the entrance to the east of Lothian Villa

See Topic "Signages"

10. On first occupancy the operator will deliver a letter to each household on Ravensheugh Road and Hope Place that abuts the site providing a contact telephone number for a responsible person who will be on site for the duration of the occupancy.

See Topic "Accountability"

11. The site does not currently have a potable water supply and use of the hydrant in Hope Place is not possible because of the need to maintain uninterrupted vehicle access for householders. Operators will therefore make alternative arrangements to have a portable drinking water supply delivered by tanker or similar method.

Good to see this issue addressed. See also our Topic "Accountability"

12. On the occasion of each occupancy, a specific restriction will be added to these conditions and notes the dates and times of horse race meetings and golf club competitions and prevents operation of the fair ground during these periods.

Acknowledged.

13. Music and PA notifications will be limited to xx db for the duration of the occupancy.

See Topic "Noise" When /how would the figure decided on be advised?

14. Adequate portable toilets will be provided on site for the duration of occupancy according to the anticipated number of public attendance and these toilets will be adequately serviced, cleaned and all waste removed from site by licensed contractor prior to final departure from site of the operator.

Good to see this issue addressed. See also our Topic "Accountability"

Ray Montgomery,
Head of Infrastructure,
East Lothian Council,
John Muir House
Haddington

Your Ref: **LC/20/9** East Lothian

Dear Mr Montgomery,

Re. Your letter of 10th July 2017

FAIRGROUND SITE - LEVENHALL, MUSSELBURGH

- ① The undersigned residents in the Levenhall area offer you the following collective response. Unfortunately not everyone at 2—40 Ravensheugh Road & 1 —16 Hope Place received your letter by hand as claimed, but we have ensured on your behalf that everyone now has one.
- ② Of 41 households that have been canvassed to gauge local opinion, 37 have advised that they are strongly opposed to the fairground operating from this site. Of the remainder, a number are members of Friends of Musselburgh Links and will advise their concerns via that group. As you can see, a sizeable proportion is therefore not happy with your proposals.
- ③ We already welcome a number of events with local impact, among which are the Edinburgh Marathon and Scotland's "Big Nature" Festival, both in May, the Scottish Half-marathon and 10K coming up in September, the annual Musselburgh Festival, the regular events at Musselburgh Racecourse and various smaller-scale activities based around the Lagoons, Boating-pond and RSPB Reserve. These are all well-regulated and we are pleased that they introduce a wider public to the amenities Levenhall can offer. Adding the licensing of fairgrounds to this already busy calendar is surely a step too far. These purely commercial enterprises cause issues within the community that are listed later and that are not prevalent at other times, other than when the fairground operates. Now it seems the clock is to be turned back. We deserve better than that, surely.
- ④ In your letter, you refer to the fact that the site was removed from the approval list in 2003 for use as a fairground "*because of issues detrimental to local households and the amenity of the golf course and race course facilities*". We must assume that this was based on recorded complaints to East Lothian Council, the Police and other interested parties at that time. Might we know specifically what these were, and what was considered, by whom, to have changed in now proposing to reverse the 2003 decision?
- ⑤ You further state that there "*seems to be demand from the wider community....*" How have you been made aware of this alleged demand? What cross-section of the "wider community" does it represent, both geographically and demographically? "*.... to provide a fairground site within the Musselburgh area*" What other sites were given consideration? On what grounds were they rejected? "*.....and this demand was underpinned by the levels of public attendance at the two recent trial licensed occupancies earlier in the year.*" Why were local residents not advised before any trial licences were approved that their 2003 complaints were to be set aside? We are not aware of any advance notification of the two proposed trials, or opportunities for comment.

- 6 How can you be confident that attendance levels were from the local area , and did not include people from surrounding districts where there might already be Fairground provisions?
- 7 We do not really understand the Council's motivation in allowing fairgrounds to operate in this particular location. Who benefits? Clearly not the immediate local community. Do the Operators pay the Racecourse a rental fee? Presumably they pay the Council a Licence fee? Altogether, who has what financial involvement in the arrangement, and what bearing has this had on the choice of a residential site?
- 8 Following the two trial operations, can you confirm that all feedback, complaints and reported incidents to the Operators, the Council and the Police have been collated and considered in detail?
Examples of those that we are aware of include **property damage**: a broken window, car aerials snapped, damage to home and garden areas, and two attempted break-ins; **traffic problems**: parking chaos with cars being parked in any space including across driveways, cars driven at inappropriate speeds and a lack of concern for other drivers, traffic congestion at both access points to Hope Place and the use of a standpipe to access water thus blocking access, and **anti-social behaviours**: daily littering of private property including items deliberately thrown into or left in gardens, people urinating in public places, and young people running around in two front gardens causing fear and alarm to the owners. Nearby residents have reported both local bus-stops were a focus for gatherings of young people, some under the influence of alcohol, with unacceptable levels of noise and anti-social behaviour, again causing fear and alarm. 999 calls were made to Police Scotland during both trial events in regard to the latter issue. Neighbours report that they have not experienced issues of this intensity since 2003.
- 9 We have documented all the above incidents and others, and can provide the details if it will help. Unfortunately there is not enough time to submit Freedom of Information requests regarding what complaints were logged with the Council or Police following the two trials, so we rely on you to be forthcoming. We will be approaching Police Scotland for the co-operation of a Community Liaison Officer to provide us with their views. Can you confirm that the Council's consideration of any further licence applications would also be in consultation with Police Scotland?
- 10 The letter suggests restricting of licences to the months between April and September "taking advantage of the lighter evenings to mitigate against any anti-social behaviour that may arise". While the good intention is appreciated, the reality is that anti-social behaviour has no need for the cover of twilight or darkness – it will happen at any time, and restricting operations to daylight hours must not imply any relaxation of vigilance.

We acknowledge that the general tone of your letter is conciliatory and seems to hope to address all the issues that you believe are significant. We in turn wish to demonstrate your Proposal's failings, put on record our very real concerns , and persuade you that the best outcome for the Council and the locality would be to refuse any further (including pending) applications from Operators for fairgrounds on this site. Please respond to us within 10 working days of receipt.

Yours sincerely,

The undersigned local residents.


Appended:

A) Signature Pages

B) Comment and Query Topics.

C) Annotated copy of proposed Operator Conditions.

D) Un-amended Site Map



Mr Ray Montgomery
Head of Infrastructure
East Lothian Council
John Muir House
HADDINGTON
EH41 3HA

7th August 2017

Dear Mr Montgomery

Fairground Site – Levenhall, Musselburgh

I write in response to your invitation to give feedback on the draft operating conditions for the fairground site at Levenhall.


This response is written on behalf of all ■ adult residents at ■ Hope Place. We have all had sight of the collective response submitted by a number of our neighbours. While we agree with many of the points raised in their submission we felt it didn't adequately represent our views so decided not to sign this and send in our own response instead.

First of all I would like to express disappointment that a consultation was not undertaken prior to the two recent trial licensed occupancies earlier this year. It was quite a shock when Horne's Fairground arrived with no notice and even more of a surprise to discover that Taylor's were to arrive within weeks of Horne's leaving.

Our experience with the two trial occupancies was very different and I think it's important to highlight this. The fact that we are not opposing further licenses is due to the conduct and attitude of Taylor's Fairgrounds. Had it been based on Horne's Fairground it is likely that we would be objecting to further licenses.

Horne's posted a letter through the door with complimentary wristbands but there was no other contact. They used Hope Place as an access road, allowed a huge amount of litter and rubbish to build up on the street and the grass behind that they used for car parking and had no consideration for local residents.

The day that Taylor's arrived Mr Keith Taylor was in Hope Place knocking on doors and trying to speak to residents. He offered free wristbands but more importantly he offered reassurance that he cared about minimising impact on local residents. As part of this he gave 3 contact mobile numbers for use at any time to raise issues or concerns. Mr Taylor was clear that Hope Place should not be used as an access route. However, because Horne's had used Hope Place just 2 weeks before all visitors expected to use Hope Place. This led to even worse traffic chaos in Hope Place as cars found the barrier closed when they got to the end of the street. Also, the signage at the end of Hope Place was incorrect as it didn't take account of the fact that there was a second access road into the street. On one occasion I found the barrier open at the end of Hope Place and reported it to the box office at the fairground. It was closed within 10 minutes of my reporting it. I happened to be walking my dog at the time that the last Taylor's vehicle was leaving the site. The whole area was absolutely spotless – in fact it was cleaner than when they arrived. I was so impressed that I contacted the Musselburgh & Inveresk Community Council at the time to let them know.



Based on the above we do not object to further operating licenses provided adequate provisions are put in place. I will respond to the provisions in the number order provided in your operating conditions document for ease of reference:

1. To ensure the limitations of vehicle movement are adhered to adequate signage is required.
2. As above. The signage must be clear about entry to Hope Place and stewards must be on the entrance to ensure compliance.
3. The size of both trial occupancies was reasonable so if this is the same there is no issue.
4. The operating times stated seem reasonable provided there are stewards to ensure a safe and well behaved egress from site.
5. We would not support any more than 2 licenses per year and these should be at dates when there is still daylight at 9pm.
6. The stewarding suggested is not adequate. There would need to be a steward at each entrance to Hope Place or at the junction in the street. Also, the fencing off at the racecourse will mean increased pedestrian traffic on Hope Place and this will require at least one if not two stewards to ensure appropriate behaviour on the street.
7. The fencing in of the fairground site worked well on the two trial occupancies.
8. Stewards to maintain the fencing and golf course are all well and good however the increased pedestrian traffic on Hope Place must be accounted for in the stewarding requirements as per point 6.
9. Signage must be better than the trial occupancies and stewards are required to support this.
10. This is essential and a designated contact at East Lothian Council should also support this.
11. This is essential. The disruption and distress to our neighbours due to this is completely unacceptable.
12. No comment on this.
13. The sound levels at the Taylor's Fairground were acceptable but I don't know what they were.
14. No comment on this.

Litter

There are no conditions in relation to litter and this is a huge issue for the community, the environment and wildlife. Horne's had a disgraceful amount of litter in Hope Place and the car parking area, including dirty nappies! Taylor's came along Hope Place every day and picked up litter which was appreciated.

It should be a condition of any license that litter is removed from Hope Place and the car park area daily.

Stewarding

Stewards are very welcome but must be greatly improved on from the trial occupancies when stewards were young & inexperienced.

Both the front & back of the homes in Hope Place should be included in any stewarding requirements.

Stewards require a supervisor to ensure consistency of standards & to support them.

See point 6 above.

Signage

Signage must be greatly improved. The last time it told people to take the 1st left rather than the second left.



Police & Local Authority Support

An agreement that the police and Community Wardens will support residents during occupancies would go a long way to reassuring residents.

Damage Claims

A process to claim compensation from the Fairground for any damage to cars and property which can be proven to have taken place during access to or egress from the fairground would seem to be fair and again would go a long way to reassure residents.

Thank you for the opportunity to provide this feedback. Should you wish to discuss this any further please do not hesitate to contact me.

Yours sincerely



Written on behalf of and with the full consent and knowledge of the following occupants of 3 Hope Place:

- 
- 
- 

Hope Place
Levenhall
EH21 7QD

10 August 2017

Mr R. Montgomery
Head of Infrastructure
East Lothian Council

Dear Mr Montgomery,

As a resident of Hope Place and [REDACTED] someone who has been involved with teaching and organising trips for youngsters and teenagers in both the state and private sector, I was shocked by the lack of safety precautions put in place with regard to the traffic on Hope Place, Ravensheugh Road and in the allocated 'car park'. I witnessed a near miss collision of a child of six years old and a car that was driven far too quickly down Hope Place - a very scary moment for the little girl, her father and me. As a [REDACTED] I have to fill in many risk assessments for trips. I would be very interested to see the risk assessments filled out prior to the two trial fairgrounds.

I am very surprised that the car park was unmanned or certainly was at the times that I walked through with my dogs. Cars were being driven far too quickly with little regard for the pedestrians. There were no clear signs as to how to access the designated car park either. Totally baffling for a driver as the signs told them to take the next left - this then brought them back into Hope Place. My [REDACTED], [REDACTED] and I had to tell many fairground visitors that Hope Place was not a designated place to park. The responses we got from some people were not pleasant.

Levenhall is a very quiet, residential area with an old people's home and I would have thought there were many other areas far more suitable for a fairground with better access and car parking facilities.

Levenhall Links is an area loved by walkers and bird watchers and the lagoons are a safe haven for many wading birds. The area has also been used on a number of occasions to host Scotland's Big Nature Festival. To consider hosting fairgrounds in a similar area seems baffling!

Yours sincerely,

[REDACTED]

Hope Place
Musselburgh
East Lothian
EH21 7QE

10th August 2017

Ray Montgomery
Head of Infrastructure
East Lothian Council
John Muir House
Haddington
East Lothian
EH41 3HA

Your Ref: LC/20/9

Dear Mr Montgomery,

I am writing in response to your letter dated 10th July 2017, titled "Fairground Site – Levenhall Musselburgh" and the accompanying draft "operating conditions" and "site plan." I wish to formally lodge my objection – in the **strongest** possible terms – to any proposal which seeks to re-introduce licensing for Fairgrounds to the Hope Place / Levenhall area.

In summary, based on our recent appalling experiences with both the unannounced fun fair trials earlier this summer and on a review of your draft operating conditions and site plan my main objections are focused on - but not limited to - the following issues;

- Public Order & Public Safety
- Road Traffic issues – including access, parking and driving at excessive speed in residential areas.
- Anti-social behaviour – including excessive noise, large gatherings in and around the site including local bus stops.
- Public indecency – including public urination, defecation and sexual activity.
- Mis-use of alcohol and drugs – including but not limited to, use by underage persons
- Impact on the public purse – for costs incurred by the Council in considering, granting, monitoring & enforcing licenses. Also, associated costs in remedial work inevitably required to repair damage caused by fairground and public/vehicular activity. Additional costs for Police time dealing with associated criminal activity in or around the site as a direct result of the presence of the fairgrounds.
- Littering
- Mis-use of valued and valuable local amenities including detrimental impact on local wildlife and habitat.
- Disruption to local residents and regular pedestrians and vehicles transiting the area
- Property damage

Here are some more detailed comments based on direct observations from the trial fun fairs this year;

Despite signage directing traffic (pedestrian and vehicle) to avoid Hope Place, this was routinely ignored. Stewards situated in Hope Place were ineffective in preventing this. Additionally, we had to spend time speaking to stewards telling them we were residents as well as complaining about fairground traffic. Vehicles were driven up & down Hope Place at excessive speed. There are many children locally – including our own - who often play in our usually quiet and safe street. During the fair, we did not allow our children out in Hope Place due to safety concerns. Vehicles were parked across driveways. Resident vehicles were damaged. Residents property was damaged. Members of the public entered our front garden and attempted to gain entry to our back garden. We had a significant increase in speculative vendors offering services like window cleaning, roof & gutter work, gardening etc – several of whom were clearly more interested in scoping out the property, leading to

increased concerns about theft and breaking and entering, particularly when we were out. Litter was routinely left outside our house and in our garden. People were seen urinating in our garden. Items were thrown at our windows. Noise from the fairground was excessive and disruptive as was noise from pedestrians going to and from the fair via Hope Place. We avoided going into the garden during the hours of operation due to the excessive noise.

The unilateral decision by the Council to approve two trial fun fairs earlier this summer was without any prior consultation or attempts at engagement with the local community. There were good reasons for the removal of this site from the list of approved sites in 2003. It is clear that the Council sought to authorise these trials without consultation because it knew that there would be strong local objections to this, based on prior experiences. It is equally obvious that the Council chose to allow these trials to provide some sort of manufactured 'demand' to support a case for permanent licencing in future. It should surprise no-one that if you allow two poorly supervised fairs to operate and advertise then it will attract visitors. I will be following up on the internal and external communications leading to the decisions to grant trial licences this year, via separate Freedom Of Information request(s). I will also be engaging directly with local councillors and other interested parties, including the Police, to ensure that a decision is made to continue with the current decision not to license this site for fairgrounds.

In your letter, you state that "...there also seems to be demand from the wider community to provide a fairground site within the Musselburgh area..." - in an apparent attempt to justify the initial decision to hold the trials. Please provide me with **specific** evidence of any such demand for fairgrounds in the Hope Place / Levenhall area received since the site was removed from the approved list in 2003. I rather suspect that there will be very limited - if any - evidence of such a demand which I suspect has been almost entirely manufactured. It is also my belief that the Council have targeted Levenhall on the basis that there is a lower density of residential housing - and therefore possible objectors - compared to other, more central, accessible sites - such as Fisherrow Links.

I would also like to see details of the complaints that were received by the Council relating to both the trials and to the subsequent proposal. I will also be asking for information on reported crimes from the Police as any increase in number/type reported will obviously lead to an increase in insurance premiums for our area.

Who would be the beneficiary of any revenue from licencing? The Council or the Common Good Fund? How much money is involved and who stands to benefit - directly and indirectly? What charges would be levied on fairground operators purchase licences? What costs would be their responsibility and what costs would fall to the local (and national) taxpayer to pay for this activity? Who within the Council has had contact and engagement with the fairground operators in the run-up to licencing the trials this year? What was the nature of this contact and what exactly was discussed? These questions - and more - are what I expect to see much more transparency on.

I am also interested as to why the golf course and race course seem deserving of special consideration when compared to local residents. Why is it acceptable to avoid race/gold events whilst displaying a complete lack of consideration for local residents who would be most affected by this proposal, day to day?

In terms of the draft operating conditions and site plan, both contain many areas of concern. I do not believe it will be possible to avoid pedestrian/vehicle traffic in Hope Place - this was evident during the trials, despite the presence of stewards. The extent and placement of fencing will be highly disruptive to local life and amenities for the many who use Levenhall links routinely. They will also be an eyesore and will merely serve to direct the problems elsewhere in the local area. The proposal to route traffic along behind the back garden walls of residents in Hope Place and Ravensheugh Road presents many issues. Traffic turning into this route will present an obstruction to routine traffic between Musselburgh and Prestonpans. It will increase road safety issues and noise and anti-social behaviour complaints. During the trials we had problems with people trying to gain entry to back gardens, damaging gates and property and leaving litter. The proposal to park cars in this area as well will increase disruption significantly. Attempting to state "Public Parking - if required" is disingenuous - of course parking will be required, and it will not just be restricted to designated areas but within the local community as we saw during the trials.

Obviously, the lack of specific information in terms of the number of fairground licences, the gaps between them, the duration of each and the overall time period make it difficult to comment on this aspect of the proposal. For the record, my response is that I do not want ANY funfairs near Hope Place/Levenhall, at any time, under any conditions. I do not believe that any realistically achievable conditions – including those in the operating conditions and site plan – can be sufficient to resolve my significant concerns. The fact that potable water and sanitary provision will have to be transported onsite is further evidence the local infrastructure is unable to cope with the proposed use. This will require additional heavy traffic activity to support both visitors as well as the fairground operators and staff who will be resident on site.

Possibly one of the most naïve assumptions in the proposal is that disruption will somehow be limited to one hour before and one hour after opening/closing time of the fairground(s). The continual presence of fairgrounds in the area will inevitably serve as a magnet to people – including those with anti-social &/or criminal intent. Who is going to deal with that when there are no stewards? The answer is the local Police - who are already over-stretched and whose budget can be put to far better use. Once these groups are attracted to the area, they will continue to visit through habit and opportunity, long after the fairground moves on. There is already issues with anti-social behaviour in Levenhall Links and this will only get worse.

In general there is a concerning lack of clarity on responsibility and accountability regarding this proposal. It looks like the Council &/or Common Good Fund look to gain financially from any arrangements, with the Police and local residents having to deal with the associated costs and inconvenience. The local community is already happy to support many activities in Levenhall, related to golfing activity, racecourse activity, the marathon and half marathon as well as the many dog walkers, cyclists, runners and wildlife enthusiasts. Most of these people behave appropriately and require limited additional arrangements. To expect us to cope with an ongoing major disruption like the fun fairs proposed is completely unreasonable and will be strongly resisted for very good reasons

Yours sincerely

A large black rectangular redaction box covers the signature and name of the sender. Below it, a smaller black rectangular redaction box covers the sender's address or contact information.

Hope Place
Musselburgh
East Lothian

10th August 2017

Ray Montgomery
Head of Infrastructure
East Lothian Council
John Muir House
Haddington
East Lothian
EH41 3HA

Your Ref: LC/20/9

Dear Mr Montgomery,

I am writing to strongly object to the proposal to consider licensing the site at Hope Place / Levenhall for Fairground activity. This is based on the information contained in your letter of 10th July and the attached operating conditions and site plan. It is also based on direct experience of the two trial fun fairs earlier this summer both of which were very disruptive.

During the recent trials local residents experienced a lot of disruption from operator lorries, cars etc as well as cars and pedestrians visiting the site. Vehicles were parked across driveways, there was nowhere for residents to park on the street, cars and property were damaged and a lot of litter was left on the road and pavement as well as in our garden. We had visitors to the fair come into our garden and leave litter. There was a lot of anti-social behaviour including shouting and swearing. Normally I am happy for my children to play in the front garden and in Hope Place which is usually quiet and safe. During the fairs we kept them inside due to concerns for their safety as well as the bad language being used in the street. These problems continued despite the presence of signs and stewards to keep people from using Hope Place. These attempts did not work and I do not have any faith that the proposals contained in the operating conditions will be any more effective.

People also experienced disruption due to anti-social behaviour at and near the bus stops in Ravensheugh Road, where large groups would gather. This was intimidating and disturbing particularly for children and the elderly.

We experienced a lot of noise and disruption from the fair itself which discouraged us from going into our back garden during the hours of operation. There were also problems with people congregating behind the walls at the end of the back gardens in Hope Place and Ravensheugh Road. There were several occasions where back gates were damaged and people gained entry or attempted to gain entry to the gardens. Items were also being thrown into gardens as well.

The proposal to route people and cars into the field to the rear of Hope Place concerns me from a safety and security point of view. I am also concerned at the damage that will be caused to the Links and who will be responsible for repairing this when the fairs leave. The Police are busy enough already without expecting them to deal with anti-social and criminal behaviour which can be expected from some of those attracted to a fairground.

I have lived in Levenhall for many years and have never been aware of any demand from the 'wider community' for a fairground. I am upset that the council decided to approve trial licences this year without any attempts at community consultation. My main objections to the proposal are on the grounds of safety, anti-social behaviour, traffic management and the site not being suitable to host the significant numbers of operators and visitors to a beautiful local resource for

extended periods. I object in the strongest possible terms and will be speaking to my local councillors and police about these concerns.

Yours sincerely

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes or dates that might have been present.