

## Members' Library Service Request Form

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Document Title	Musselburgh Flood Protection Scheme MLS report - Appendix A.15

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Additional information:

Authorised By	Carlo Grilli
Designation	Service Manager - Governance
Date	18/10/24

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Library Reference	112/24
Date Received	18/10/24
Bulletin	Oct 24

**Subject:** (0436) Fwd: Objection to proposed flood scheme

**Sent:** 23/04/2024, 21:21:53

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Categories:** [REDACTED]

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Sent from my iPhone

Begin forwarded message:

**From:** [REDACTED]  
**Date:** 23 April 2024 at 09:47:18 BST  
**To:** [mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)  
**Subject:** Fwd: Objection to proposed flood scheme

Hi!

I'm resending my objection letter as I haven't received an acknowledgment of receipt from you.

Sent from my iPhone

Begin forwarded message:

**From:** [REDACTED]  
**Date:** 22 April 2024 at 20:56:05 BST  
**To:** [mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)  
**Subject:** Objection to proposed flood scheme

[REDACTED]

[REDACTED]

To Whom it may concern,

I'm writing to express my objection to the proposed Musselburgh Flood Protection Scheme.

Our home is in close proximity to the river Esk and the seafront and the proposed scheme will therefore have a direct impact on our lives.

My first objection is related to the overall design of the scheme which seems to rely on tons of concrete being used without any consideration to the natural and historical beauty of our town. I believe that unsightly concrete barriers are a very dated solution and will forever destroy people's enjoyment of the river and the seafront. There is nothing esthetically exciting in the design. Nothing at all. Just concrete nightmare. I'm shocked that East Lothian Council has not put any emphasis on preserving the character of the town and hasn't chosen better suited solutions to deal with their concerns. We live in a conservation area and Council is very strict when it comes to individuals making

improvements to their properties. I'm sure that if we wanted a high concrete wall around our property we wouldn't be granted permission. It would be unthinkable.

Musselburgh is beautiful. Everybody agrees that river with its green riverbank, ducks, geese and all kinds of birds is truly special to our town.

The Flood Protection Scheme design is simply not fit for character of the town.

My second objection is to the height of the proposed walls around the river and the seafront. The proposed walls are extremely high and at some places the walls will be blocking all the views completely. Children and wheelchair users will be the most affected by this. What is the purpose of such a high walls? The flood might never happen but people have to look at the walls every day. I object to the fact that we will not be able to enjoy beautiful views we got accustomed to enjoy.

I also object to many mature trees being killed to facilitate this scheme.

We should enhance green spaces and protect our trees and wildlife. I would expect the Council to choose the scheme that prioritises natural solutions and not the one that replaces trees and green spaces with concrete.

I hope you take my objections into consideration and don't go ahead with this depressing scheme.

Regards, 

P.s

Please acknowledge receipt of my letter of objection, in writing.

Sent from my iPad

**Subject:** (0437) Re: Objection to the proposed MFPS.  
**Sent:** 23/04/2024, 21:22:25  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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On Tue, 23 Apr 2024, 17:08 [REDACTED] wrote:



[REDACTED]  
23rd April 2024.

Dear Sir/Madam,

I am writing to object to the recently published Musselburgh Flood Protection Scheme.

This is of great concern to me as I have been a resident of Musselburgh since [REDACTED]. I only found about the MFPS last year and I really don't think that this is acceptable considering the great impact it will have if it goes ahead as planned.

I would like to bullet point some of the issues I have with the proposed scheme.

1: My concern for the existing drainage/sewer system not being adequate or maintained at the present time adequately so therefore the proposed MFPS poses a significant risk that water and sewage may get trapped behind the proposed walls and that there is no adequate provision for this within the scheme.

To my knowledge it is the council that would be left to deal with these issues but at what cost?

Overall I see more risk of flooding due to the proposed scheme.

2: While the works would be going on the detrimental disturbance to the town will be significant .

Musselburgh as it is already is a thoroughfare of traffic all trying to reach the east side of the town I therefore would dread to think of the impact this is going to have on the town and for how long this would go on for? Not to mention the affect this would have on businesses located in the town .

3: The environment and the wildlife are of utmost importance to me and should be to everyone in this present climate. I myself have suffered with anxiety for most of my life. Since relocating to Musselburgh almost [REDACTED] years ago , the harbour, the beach and the riverside have been a lifeline to me by frequently visiting these areas. The thought of having restricted access to these areas and the views being ruined forever are causing me great distress and upset . Not to mention the distress and impact this proposed scheme would have on the wildlife , it's quite unbearable thinking about it.

4: The trees that are proposed to be chopped down along by the river makes no sense at all to me as trees regulate waterflow and reduce the intensity of floods . I strongly object to the chopping down of the trees.

5: Overall I see more risk of flooding to Musselburgh from narrowing the river and replacing bridges and building high walls whilst works were being carried out over how many years ?

6: Lastly I implore you to review the proposed actions and to find a more environmentally friendly way of protecting our town from floods in the far future and involving new ideas than just doing the obvious and putting up walls which I must say is not very forward thinking!

I know the residents of Musselburgh expect more and the best for its town as I do, please listen to our concerns and pause the MFPS.

Please acknowledge receipt of my letter/email of objection in writing . And please advise me of the next steps and timescales thankyou.

Yours sincerely and hopeful

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[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
23 April 2024

Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

Dear Legal Services

I am writing to object to the recently published Musselburgh Flood Protection Scheme. The grounds for my objection are detailed below.

I chose to live in Musselburgh [REDACTED] years ago - it is a beautiful town to live in and I love living here. I enjoy walking my dog regularly by the river, the harbour, the Links and Grove Areas. It greatly benefits my mental and physical health. I get a huge amount of pleasure from observing nature – there's much to see including historic woodland, flora and fauna and there are many established habitats here too.

As a resident of Musselburgh, I'm really concerned by a number of things that will impact not only me but other people and nature in a detrimental way. People depend on the environment around them for their physical and mental health, and general wellbeing" (Flood Risk Management (Scotland) Act 2009).

If the scheme is implemented - in its present form - it will severely affect not only my personal enjoyment of these areas and amenities but also the enjoyment of others, including residents and visitors to our town for many years to come. The threat to river and coastal walks and views, to our wildlife, trees and flora and fauna will affect my overall health.

I am sad that a nature based, less invasive solution has not been considered by our councillors and is excluded from the scheme. Scottish Government guidance says that a range of scenarios should be included. How could the Council judge what is necessary protection without being given a range of options? The commissioned Dynamic Coast Assessment is available to councillors now (although not the general public) and they must revisit this matter, properly review the information and look at deploying nature-based solutions as far as practicably possible. Nature-based solutions at coast should not be ruled out.

The Scottish Government is heading towards NFM. On 23 December 2023, [the Minister stated](#) "The Scottish Government recognizes the importance of natural flood management (NFM) measures in reducing, slowing or otherwise managing flood waters across catchments and along the coast while

also delivering multiple environmental benefits.” Why is ELC out of step with the Scottish Government? Surely, NFM should be at the forefront of the scheme.

NFM could include a whole range of techniques to slow the flow of the river throughout the catchments and to encourage the natural dune system along the coast. Discounted these at the start was wrong and the situation has been made worse by the exclusion of NFM (decided upon in October).

I do not wish our landscape ruined by hideous concrete walls. The proposed height of these is of particular concern as they will totally obscure the wonderful views we currently enjoy and change the character of our town forever. The height of the walls was based on SEPA’S worst case scenario (Sea level rise of c86cm by 2100). This was only a prediction, not a certainty. I have two concerns : 1) the date is too far ahead in the future to accurately predict sea level rises and 2) what if this prediction is wrong? Is that not a justified reason to pause the scheme, monitor and build appropriate defences based on fact in the future? The flood walls in Brechin (built/renewed 2015) recently failed. The flood gates in Perth also recently failed. Man-made interventions cannot prevent flooding downstream – we need to do more upstream to slow/store the water so it doesn’t rush down through the town.

We are already experiencing problems with vandalism – unsightly graffiti is appearing on existing wall space and railway bridges around our town. In the absence of adequate policing, fresh concrete walls, built as part of flood defences, will quickly turn into an eyesore and turn our lovely town into a ghetto. I would like to ask how the council will address this and if adequate funding has been made available to remedy this in the long-term?

Neither do I want our river to be changed into a canal. This will completely ruin a lovely part of the river. Furthermore, narrowing the river will not stop floods but increase flood risk.

I believe that - if the current plans are not amended there will be damaging consequences: people will be deterred from either living here or visiting our town. There will be a negative impact on tourism, our amenities, shops, and local businesses - especially the smaller ones which will decline, close down or choose not to locate here - thus affecting our local economy. House prices will be affected as values decrease. Does the council have funds to compensate us all for this detriment?

In addition, there will be a serious environmental impact as established trees are felled, ancient woodland destroyed and lost for good and established wildlife habitats annihilated. Existing wildlife, including kingfishers, otters and swans will be scared away or perish. There will be noise pollution and disruption for at least 5 years as the work progresses.

There is an important and much-loved wildlife site on and around the cobbled ramp area by the river (at the side of the Store Bridge) at the end of Shorthope Street. I was really upset to discover that this site has been chosen for a temporary compound for site works. (EIA Report – Introductory chapter Document 16). This will have a devastating effect on wildlife that gathers there and prevent public access to and enjoyment of this very special feature of our town and it needs to be protected. I would like for the positioning of this to be readdressed and for it to be relocated to a position that will have much less impact.

Other unique features that will be affected include the firehouse building, archer statue, Hayweights clock, as well as information panels and a number of memorial benches. They will all need to be relocated to accommodate the scheme. I can find no information about where they will be moved to and I am concerned that important parts of our local history and heritage will be lost. Please can councillors ensure that this is addressed.

Personally, I do not wish to live with the disturbance of constant pile-driving along the river for years and the stress that this continual pounding noise causes. In addition to the impact on wildlife, I'm also concerned by how this will affect local residents who work shifts, have trouble sleeping, and who suffer from PTSD and/or mental health problems.

I'm also worried that nearby historic and/or listed buildings and bridges, including those in the High Street & Eskside East/West areas, may be damaged by the resultant vibration. Is funding available to properly survey and protect these structures or compensate owners?

I have discovered that the banks of the Esk and Fisherrow Links are Common Good land. As such, any interruption to their use by the community should be compensated. These amenities are currently enjoyed by myself and hundreds of people on a daily basis – once the flood scheme is underway, please tell me where we should all go to benefit from being in nature and by the water?

Musselburgh hasn't been affected by flooding during my lifetime. My understanding is that the most recent flood here was in 1948! As a tax-payer, I would like to ask why Musselburgh was chosen and areas more desperately in need of flood prevention schemes weren't considered first. In our county, Haddington suffers from frequent flooding – yet there is not a flood prevention scheme in place there. I would like to know why. Other areas such as Dumfries and Perthshire are also directly affected by flooding. Surely it makes sound financial sense that when financial resources are scarce, which they are now, that they should be applied strictly in order of need.

Our core Council Services are already badly affected as money/funding becomes less available. Services like care for the elderly are suffering eg Eskgreen Nursing Home closed and hasn't been replaced and Riverside Medical Practice is failing us badly. Essential community health and well-being amenities including libraries, leisure and cultural are also struggling. Our Old Town Hall has closed, Stoneyhill Community Centre has demised while our Theatre, Venues 1 & 2 and various Arts venues have remained closed at the Brunton Hall (following a roof survey in 2023).

This latter closure has been a devastating loss for Musselburgh and East Lothian and many local arts groups are now struggling due to lack of suitable, affordable performance space in the county. Also following on from this, "The Bistro at the Brunton", another asset to our community and form of 'hub' which operated in the building for 18 years, has recently been forced to close.

Something is clearly wrong with budget and spending priorities.

Regarding finance, I'm highly concerned about the cost of the proposed flood prevention scheme. I have tried to find cost breakdowns but they don't appear to be available in the public domain for me to look at. Please can you tell me where I can find them and if they're not available for the public to view, can you tell me why?

I cannot understand why the Council voted for the scheme to be put forward, given that **no cap** has been put on the cost of the scheme and they've already been advised that the cost is likely to rise. I'm aware that The Scottish Government & COSLA working group on flooding has recognised the model of uncapped funding -known as Cycle 1- allows project consultants/developers to expand flood schemes into much larger and more costly projects. Giving carte blanche to project consultants and developers is not in our best interests and something we don't need or want for our town.

The building of the Scottish Parliament in Holyrood and the crippling escalating costs incurred and resultant public ill-feeling is an example of what can happen when a price cap is not applied and analysis of costings not carried out effectively. The tram scheme is another high profile example. Has the council not learned from these experiences?

Please advise me how you will ensure that tax-payers money is protected against inflation and additional costs without proper scrutiny of a proper cost breakdown and application of a price cap?

Finally, I do not understand why the Musselburgh Active Travel (MAT) Scheme was included in the Flood Prevention Scheme without planning permission. I think it should be excluded from the scheme. It is my understanding that all MAT elements require planning permission and - where applicable - conservation area consent. The information in its present form is confusing and difficult to understand. I am unhappy with this and would like it revisited. (All MAT proposals are deemed to be 'Developments' as defined by the Town and Country Planning (Scotland) Act 1997. Failure to obtain planning permission for all MAT related elements would be tantamount to subverting the 1997 Act. Therefore all structures and routes of MAT should go via normal planning regulations.)

The new proposed Goosegreen Bridge offers no flood reduction benefit. In addition, this bridge is without any doubt considered to be a 'Development' and not a replacement, and requires planning permission.

To conclude, I would like to state that I'm not totally against a flood protection scheme being put in place for Musselburgh – I just don't believe that this is the right one.

If the scheme proceeds in its present form without amendments I expect to be compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).

I would be grateful if you could acknowledge receipt of my letter of objection, in writing. Please advise me of next steps and timescales involved.

Yours sincerely

██████████



**Subject:** (0439) Objection to MFPS  
**Sent:** 23/04/2024, 21:28:19  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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**From:** [REDACTED]  
[REDACTED]  
23/04/24

**To:**  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

To whom it may concern,

I am writing to object to the recently published Musselburgh Flood Protection Scheme.

I have lived in Musselburgh for the last [REDACTED] years and have several objections to the proposed flood scheme. My [REDACTED] old son and I birdwatch at the river and we also regularly walk along the river and seafront.

I object to the published scheme because:

#### OBJECTION 1

As a taxpayer payer I think it's a very expensive scheme and poor value, especially given the many issues with the design and overall approach. I also believe the company delivering the contract has personal connections with people at the council, and the tender process has therefore not been fair. It feels like the wheels have been set in motion since the contract was awarded and the PR team are working hard to convince the people of Musselburgh they have been listened to. I do not think this is the case, given the scheme is fundamentally flawed, and concerns have not been addressed (eg. loss of trees).

#### OBJECTION 2

The scheme will destroy the natural beauty of the central area of the town. The landscape by the river and the mature trees are the nicest part of Musselburgh and the proposed scheme goes too far in cutting down over 200 trees, narrowing the river and building walls that will ruin the view for many (children, children in buggies, people in wheelchairs, shorter people). The proposed scheme has not been designed by architects, it therefore doesn't consider the aesthetic impact of large concrete walls. It does not take into account how people use the existing blue and green space in Musselburgh. The proposed wall along the coast will block too much of the view of the sea.

#### OBJECTION 3

It is not an environmentally friendly approach. Besides being overkill given the fluvial and coastal flooding record in Musselburgh for the last 50 years, this amount of concrete has a huge carbon footprint. The narrowing of the river and the cutting down of trees will destroy habitat for birds and other creatures.

I am very concerned about the impact climate change is having on our weather and understand the council must futureproof in relation to flooding. Surface water flooding is a much more urgent issue in Musselburgh and investment in waste water infrastructure would reduce the very immediate risks of buildings being flooded with sewage.

I would like to see rising coastal and river water managed in an environmentally friendly and less costly way - a scheme which respects the natural assets of the town, and takes into account how people use and enjoy the space.

Please acknowledge receipt of my letter of objection, in writing. Please advise me of next steps, and timescales, I would like communication to be via email or post.

Yours Faithfully

A solid black rectangular redaction box covering the signature area.

**Subject:** (0440 NO ADDRESS) Objection to Musselburgh Flood Wall  
**Sent:** 23/04/2024, 21:30:03  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections

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**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** NO ADDRESS

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Please note my objection to the building of a wall as proposed to protect Musselburgh from floods. I don't think the plan has been thought through properly. I believe natural solutions offer a better answer and haven't been looked into properly as a realistic option. I also think it will impact on the possible development of Musselburgh as a desirable residential location outside of unaffordable Edinburgh. Our High St and facilities are closing down and this will make the aspect even bleaker for investors in our town.

Regards,  
[REDACTED]

**From:** [REDACTED]  
**Sent:** 23 April 2024 21:33  
**To:** Musselburgh Flood Protection Objections  
**Subject:** (0441 DUPLICATE OF 0434) Re: Musselburgh Flood Protection Scheme - Objection

**Categories:** [REDACTED], Added to excel spreadsheet

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Resending as I did not receive an automated reply to my original email?

On Tuesday, 23 April 2024 at 21:06:32 BST, [REDACTED] wrote:



Tuesday 23 April 2024

Carlo Grilli  
Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA  
[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

Dear Carlo and whomever it may concern,

As a resident of Musselburgh, I am writing to object to the recently published Musselburgh Flood Protection Scheme (MFPS).

I object to the published scheme for the following reasons:

Not enough nature based solutions have been included in the scheme. The FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009 and an increasing number of environmental experts around the world recognise the importance of incorporating natural flood defences in flood protection schemes before adopting hard engineering? Why has it been limited in the MFPS? As declared by East Lothian Council there is a Climate Emergency, how do you explain why you

chose to exclude more upstream nature based defences from the scheme in favour of higher walls?

Loss of biodiversity, the removal of mature trees that naturally absorb water to allow hard engineering works does not make sense. Why is there no final documentation highlighting which of the trees will actually be removed. We the public have not being given all of the required information to make a proper informed decision on the reality of the proposed scheme. Trees are integral to biodiversity. Trees should only be removed if they are diseased or pose a threat to life not because they are deemed to be in the way. The removal of just one tree has a big negative impact on the local area. Planting saplings to replace a mature tree does not mitigate the loss.

Loss of public access to nature. The works to build the proposed scheme will take a number of years which will have a significant negative impact on the community and reduce access to public spaces. I regularly walk and cycle along and over the river for leisure purposes. Being outdoors surrounded by nature is good for our mental health and general wellbeing. If the MFPS goes ahead access to the river and existing cycle paths will be prevented due to the construction sites. This will have a big negative impact on the communities general wellbeing. It is a basic human right to be able to access safe natural outdoor spaces, not everyone has access to a garden. An increase in mental health issues will add further pressure to existing local health and social care services. I find it hard to forget the comment from a community member who during lockdown in 2020 stated that they would not have survived if they had not been able to walk by the river and along the seafront daily.

Although the Musselburgh Active Travel scheme is subject to other planning rules, some of the proposed paths and structures have still been included in the published MFPS documentation so I feel that I have to include them in my objection. I enjoy walking and cycling and encourage others to do so too. However, the proposed active travel paths from what I understand, would be responsible for reducing the width of the river, is this why the walls are so high? By reducing the capacity of the river to flow to the sea must increase the flood risk? I also think that the width of the proposed active travel paths although not part of the MFPS, are too wide and would further reduce the amount of green space available to the community along the river. The current "share with care" paths are adequate as long as all users follow the ethos and do share with care.

In addition the two bridges proposed as part of the MAT scheme do not reduce the flood risk so I don't understand why they are included in the MFPS documents. The proposed bridge at the mouth of the river is not a replacement but a development and must be subject to additional planning permission?

Lack of data sharing. Although requested by members of the community, why has the model used to underpin the scheme never been presented to the public? Why when public money has been used to procure the project design has the data/information not been provided for public/peer review? I work with data and have provided modelling for a number of projects in my working life and have always made my raw data and outputs available for scrutiny. We are all capable of making mistakes. What is being hidden from the community?

Scheme costs. In the Flood Order Notice, the current estimated cost is reported as three million five hundred and thirty-five thousand pounds sterling (£103,535,000). This amount is certain to rise. How do you justify spending so much tax payers money on this project when there are a number of health and social care, education, early years and community amenities that require resources now? How are East Lothian Council going to fund their portion of the cost?

Although actioned before the Council elections in May 2022, East Lothian Council cabinet voted through the preferred scheme in January 2020. This should have been discussed by the full Council. I feel that the Cabinet did not have the power or knowledge to vote on a scheme of this magnitude.

Finally I hope that attention was paid to what the First Minister said when the Scottish Government Cabinet visited East Lothian last year and that you will listen to what the community of Musselburgh has to say on the MFPS.

Please acknowledge receipt of my letter of objection, by replying to this email. Please advise me of next steps, and timescales.

Yours Faithfully,

A solid black rectangular box used to redact the signature of the sender.

[Redacted]

23/04/2024

Carlo Grilli  
Service Manager – Governance Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

Dear Carlo Grilli

I am writing to object to the recently published Musselburgh Flood Protection Scheme.

living near the river, the proposed flood protection scheme will directly impact my daily life. The construction activities will bring about increased noise and disruption, effecting my peace and comfort at home. alterations to the riverbank and the surrounding landscape will change the aesthetic appeal of the area, impacting the overall ambiance and enjoyment of my time at the river, I spend time at the river daily as it is my greenspace and sanctuary and this will have a detrimental effect on my heath and wellbeing.

I object to the published scheme because:

1. **Lack of public consultation or transparency:** I'm concerned about the lack of adequate public consultation or transparency in the development of the proposed flood protection scheme. I feel that our voices were not sufficiently heard during the planning process and that important concerns were not adequately addressed. It should have been made essential to engage with the community throughout the planning and implementation phases of the scheme, ensuring transparency and providing opportunities for meaningful input and feedback.
2. **Economic implications:** I worry about the economic implications of the scheme. The construction phase, which I believe will take in the region of 5 years, will not only disrupt local businesses and tourism but potentially lead to financial losses for the community. We must consider the potential economic repercussions and explore ways to minimise negative impacts while implementing flood protection measures.
3. **Environmental impact:** I'm concerned about the potential environmental impact of the proposed scheme. Construction activities, leading to habitat destruction, disrupting the ecosystems, and resulting in the loss of biodiversity. The alteration of the riverbank and surrounding landscape will disrupt the natural balance of the area, impacting wildlife habitats and potentially leading to long-term ecological consequences. We need to

carefully assess and mitigate these environmental risks to ensure the protection of our local ecosystem.

4. **Community disruption:** The proposed scheme will significantly disrupt our daily lives. Construction activities, including piling, will lead to increased noise, dust, and disruption, causing undue distress. Access to amenities and services will also be restricted during the construction phase, causing great inconvenience.
5. **Effectiveness and necessity:** I have questions about the effectiveness and necessity of the proposed scheme. I doubt whether the perceived flood risk justifies the associated costs and disruptions. There's a need for transparent assessment and communication of the flood risk and the proposed measures to address it. Additionally, I am concerned about the long-term effectiveness of the scheme in protecting against future flood events. I don't believe the proposed flood protection is both effective and necessary in mitigating flood risk.
6. **Proposed cost of the scheme:** I'm concerned about the proposed cost of the flood protection scheme and its potential financial implications. I question whether the allocated budget is justified and whether there are more cost-effective alternatives available. I don't feel a thorough cost-benefit analysis of the proposed scheme, considering both the upfront costs and the long-term benefits in terms of flood risk reduction and community resilience took place.
7. **Aesthetic considerations:** changes to the riverbank and surrounding landscape due to the proposed scheme will significantly affect the visual appeal and scenic beauty of the area. As someone who values the aesthetic qualities of the area, I object to alterations that detract from its visual appeal. It's crucial to thoughtfully weigh the visual impact of the proposed scheme with its great big walls and explore design options that minimise any negative aesthetic effects.

Please acknowledge receipt of my letter of objection in writing. Please advise me of the next steps and timescales. I would like communication to be via *email*.

Kind Regards,

██████████





23rd April 2024

Carlo Grilli  
Service Manager- Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

Dear Mr Grilli,

I am writing to you to object to the Musselburgh Flood Protection Scheme.

Whilst I will not pretend to be an expert in the topic the current scheme raises several significant points of concern for me and I have so far not been able to find answers that satisfy my concern and has therefore led me to write my objection letter to you.

As a lifelong resident of Musselburgh the wellbeing of the town and the environment is of great concern to me. I am deeply concerned about the impact that this scheme will have on Musselburgh (and Scotland's) pollution levels, our wildlife, the health of the town, our green spaces and the overall cost of the scheme. I am in favour of some form of Flood Protection being implemented and I think it is the correct approach to plan for the future. However I believe the current scheme proposed is a political decision based on a small selection of favoured scenarios and goes above and beyond what Musselburgh needs. In the documents I've read I do not think it has been clearly explained or made clear why alternative, more conservative approaches are not being seriously considered. Future prevention warnings have come across as vague and from the information I have had access to the justification for the current scheme is just not there. Unfortunately due to having a very busy life I cannot dedicate the time I would like to this letter so will lay out my main concerns briefly below:

- **Pollution**

- - Musselburgh is already an extremely congested town with an increasing population. The High Street in particular has previously had dangerously high levels of pollution. I understand East Lothian Council worked hard to implement measures to reduce pollutant levels however, I am concerned that the scheme will undo a lot of the work that has been done. Main roads being shut at various stages of the project already congested roads are going to get even worse as a bottleneck effect is created. The general pollution this will also cause from all the construction, energy and materials being used is also not good and will be contributing to climate change. I've not come

across anything that has convinced me that being green is a priority of this scheme so this is a major worry for me.

- **Costs-**

- The scheme is currently costed at £132m in total. I have been unable to find further breakdown to these costs. As with all these things the cost will very likely rise as will the end date of the project. Why is there not a cap placed on spending and why is a detailed breakdown of these figures not being made available to the public. Spending priorities for the council are all wrong. There are serious problems regarding access to healthcare, particularly in Musselburgh. This has been a problem that is actively affecting the people of Musselburgh's lives for years. Flooding has not. Yet funding is made available for future flooding preventions but nothing is being done about the current access to healthcare issues such as creating a new doctors surgery due to overwhelming demand or doing something about the many issues that Riverside Medical Practice has. £132m is, in my opinion, a ludicrous amount of money to be spending on an over the top scheme. More conservative nature based cheaper solutions should be sought after. Not to mention the money needed for compensation claims. If the scheme goes ahead with the negative consequences, I predict I will most certainly be claiming compensation for disruption to my local services and amenities which I'm sure many other residents will be joining me in. As noted in the Flood Risk Management Scotland Act anyone that has their rights of access to land impacted can claim. Areas such as Fisherrow Links are used by dog walkers, exercise groups, football teams, disability charities and for recreation by a massive proportion of the town. Taking away use of spaces like this, the lagoons, pinkie playing fields and Goose green will have a massive impact on the mental health and wellbeing of the town and be a massive inconvenience over the course of years. Therefore it would be reasonable to suggest that a large proportion of the town will seek to claim compensation.

### **Wildlife-**

- The birds that live on the banks of the esk are one of my favourite things about Musselburgh, particularly the swans. The noise pollution and destruction of their habitat will undoubtedly push them away from the area, likely not returning to their nesting grounds. More concerningly is the impact this scheme will have on the bird reserve at Musselburgh Lagoons. With the lagoons noted as one of the sites that will be used as a construction base and being so close to the mouth of the esk the effect that noise pollution and construction will have on the birds is concerning. The RSPB call Musselburgh lagoons " a post industrial wildlife wonderland" (Holly Martin, RSPB, 2021), however this scheme will impact this greatly. Many species of birds including oystercatchers and kingfishers use the esk as a breeding area. In one of Jacobs reports that say that 63 breeding species of birds were noted of which 9 are red listed and 19 amber listed as birds of conservation concern. The Wildlife and Countryside Act 1981 makes it an offence to interfere with nesting birds or disrupt them, which this scheme is undoubtedly going to do. Is the scheme going to cease during nesting seasons? I've not read anything suggesting it will ( I would be keen to be informed otherwise) and therefore this act

will surely be broken and red listed birds will be affected. So many other species will be affected such as bats (vibration, lights, noise), otters, foxes, fish and other animals. I'm also not sure what (if any) impact works at the mouth of the esk and along the seawall with have on the marine mammals (dolphins, whales, porpoises) that frequent the forthIt is devastating to me to think of the impact this scheme will have on the wildlife of the town and the unrecoverable damage it will cause. Our planet and the creatures in it are dying because of humans, water levels are rising because of humans and this scheme is going to contribute to both of these problems. More conservative alternatives that work with nature need to be explored as a priority.

I would welcome any further information you can provide me with regarding the necessity of the scheme in its current format and that every step possible will be actively taken to mitigate the damage to the environment, wildlife and people of Musselburgh.

Thank you for taking the time to read my letter.

Yours sincerely,

A solid black rectangular box used to redact the signature of the sender.

**Subject:** (0444) Submission to Musselburgh Flood Protection Scheme consultation

**Sent:** 23/04/2024, 21:50:23

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Mr Grilli,

I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024 (the Scheme).

My name and address are:

[REDACTED]

#### Coastal defences and Dynamic Coast erosion report

I object to the current proposals from the mouth of the Esk to the Brunstane Burn (work sections 6-16) on the grounds that the expert report commissioned by ELC from Dynamic Coast, which was not available to Councillors when they voted on the Scheme, makes clear that there is a “wider and currently unaddressed future erosion risk... that may threaten the Scheme’s proposed defences and other assets along the town’s frontage”. This report was clear that further action will certainly be required in order to protect the new defences from erosion, but the Proposed Scheme gives no indication of what this might be, including costs, feasibility, or environmental impact over the long term. Rather than proceed with the Scheme as planned, which did not take this into account, our council and community should consider ways to address both flood risk and coastal erosion together.

Committing East Lothian Council to a particular line of defence for the next 100 years fails to provide the “managed, adaptive approach” that the Scottish Government advises must be taken in areas of coastal change and which the Scheme’s own design statement claims to follow. It also puts unnecessary constraints on the Council’s Coastal Change Adaptation Plan, which is being carried out this year, and which will now have to work around a fixed line of defence without consideration of alternatives, in contradiction to the guidance issued by the Scottish Government around these Plans.

The rate of erosion predicted by Dynamic Coast along the Musselburgh coastline contradicts the assumption that the defences will last for 100 years. The report’s analysis of erosion on the proposed flood defences showed “direct impact is likely to occur relatively soon, most likely 2030-2040 but potentially earlier” (p.25). This undermines many key aspects of the case for the Scheme:

- The project fails to meet one of its initial stated environmental objectives: that “the scheme will consider the impacts of climate change” (EIA §4.1).
- It directly contradicts the statement in the Environmental Impact Assessment (§12.1) that Scheme assets “have an inherently low vulnerability to climatic factors and the likely variation in these due to climate change. Consequently, this aspect of the climate change assessment is not considered further in this chapter and the focus is on assessing GHG emissions and their potential impact on climate”. Thus, this chapter, as applied to these sections of the proposal, is inadequate and cannot be considered to fulfil the legislative requirements.
- The estimates of benefit to cost ratio are now incorrect. Undermining of the proposed coastal defences here will incur much greater maintenance costs (and currently unaccounted for emissions) and likely reduce the standard of protection.

#### Biodiversity

I object to the current proposals on the grounds that the loss of ancient woodland is unacceptable and the mitigations proposed do not make up for it.

The EIA states that 0.33 hectares of ancient woodland will have to be felled in construction of the scheme, while also highlighting that NatureScot has described such habitat as an 'important and irreplaceable national resource' (§7.42). Further efforts must be made to avoid this loss during the construction period, in particular, at Pinkie Playing Fields where the ancient woodland is used for forest school and otherwise available to school pupils for their wellbeing and education.

I object to the current proposals on the grounds that the biodiversity enhancements are not strong enough and further commitments are needed, e.g. catchment biodiversity improvements and consideration given to installation of a rock ramp for Eskmills Weir. The biodiversity enhancements, as required by NPF4, should be far more ambitious and should include some 'traditional' Natural Flood Management actions such as tree-planting, pond creation or leaky dam structures in the catchment (these actions being included under biodiversity enhancement in recognition of the fact that their flood reduction impact is uncertain and therefore cannot be the main justification for their inclusion).

Further biodiversity enhancements relating to the River Restoration project should be included within the town of Musselburgh, including work to improve the water quality of the Mill Lade and Pinkie Burn (both assessed as limited ecological value in the EIA, Ch7), and the installation of a 'rock ramp' for fish passage at Eskmills Weir, as recommended by Forth Rivers Trust as 'having many benefits over other types of fish passage'.

#### Concerns over Contribution to Climate Change

I object to the overall carbon impact of the Scheme as it stands because the proposed mitigations in the Environmental Impact Assessment (Ch 12) are all described as 'potential' actions, or actions that 'could' be explored through the proposed Carbon Management Plan. While the EIA gives a range of positive suggestions, without a robust means of enforcing them there is a significant risk that they will be seen as optional.

At a minimum, adherence to the CMP must form part of the procurement process for all contractors. Further, the sustainability credentials of contractors should carry some weight through that procurement - for instance, a company with a large proportion of electric vehicles in their fleet might score more highly than one with all-petrol vehicles (this would be far more effective than simply training drivers in fuel-efficient driving techniques).

Until these suggested secondary mitigations are mandatory, the overall effect on Global Atmosphere – Climate from the Scheme must still be considered Moderate Adverse- Significant, and I object to it on that basis.

Yours sincerely,

[Redacted signature]

[Redacted contact information]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

E-mail: [REDACTED]

21st April 2024

Carlo Grilli  
Service Manager – Governance  
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East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

Dear Sir

I am writing to object to the recently published Musselburgh Flood Protection Scheme (MFPS). I am a resident living in [REDACTED] the vicinity of the proposed works to the river and the seashore. As a resident I make regular use of Fisherow Links which are close to my home are a valuable space to me allowing me access to green spaces which are beneficial to my mental health as I have mobility issues make it difficult for me to walk far or unaccompanied. I am reliant on family and friends with cars to help me with shopping and medical appointments which rely on being able to access my home via [REDACTED].

I object to the published scheme because:

**Cost**

The scheme is currently costed at £132m in total, including £53m for the flood protection part. I can find no details which indicate that these costs are final, or that the chosen contractor has agreed contractual terms which prevent costs rising. This is a concern at a time when council services are being cut and in effect from the information available to me the final council costs are unquantified.

I understand that £4m, from the information available to me, had been spent by December 2023 on design and consultations. This is a particular concern when we are consistently seeing a decreasing budget available for core Council services such as social care for the

vulnerable and elderly within our community, essential community health and wellbeing amenities: libraries, leisure, and culture. Within Musselburgh we have already seen a significant impact and I would highlight as an example, the closure of the Brunton Hall Theatre and the loss of the café within this building which was used by many including myself due to its proximity to public transport and disabled parking.

I believe that the scheme in its current form highlights that the budget and spending priorities for East Lothian Council do not match the needs of East Lothian Residents and with the current uncapped costs places an unnecessary financial burden on myself and my fellow residents within East Lothian.

Having researched further and from council meetings online it appears that East Lothian Councillors have voted for the scheme to progress on a false premise that if funding is not secured in Cycle 1 then the opportunity will be lost, however, from the information available to me it would appear that funding will be available in Cycle 2 which Musselburgh will qualify for.

The Scottish Government & COSLA working group on flooding has recognised the model of uncapped funding (known as Cycle 1) allows project consultants/developers to expand flood schemes into much larger, and more costly, projects. The escalating costs of this project should be scrutinised and capped to prevent further inflation of project and costs.

Musselburgh has been highlighted as the priority; however, recent reports suggest that the shore at Prestonpans to Port Seton is at greater risk and it is well documented that Haddington has a significant flood risk. I believe that East Lothian Councillors have made costs decisions based on, at best, incomplete information which does not make the best use of financial resources within East Lothian to protect the homes and businesses of areas which are considered more vulnerable than Musselburgh at this time.

One question which remains unanswered, and I cannot find any details for is the ongoing maintenance costs of this scheme. I can only presume, without proof to the contrary, these will be significant, however, there appears to be no future planning for this and as noted earlier core council services are being reduced and East Lothian Residents should not suffer further for a scheme with no clear sight of data on additional costs.

The loss of use of the Riverside, Seashore and Fisherow Links which has a direct impact for myself I believe will require compensation to be paid to myself and many others. In addition, I believe the works will have a significant impact on the value of my home which I would fully expect to be compensated for under the Flood Risk Management (Scotland) Act 2009. The scale of the works will severely impact my enjoyment of my home due to the noise, dirt and pollution exacerbated by the proposed use of Fisherow Links as a work compound due to my proximity to this area.

New Street is already heavily congested and well used by motorists, cyclists, and walkers and at times it is difficult for cars to travel along this street. The addition of construction traffic including large lorries, will bring a huge amount of congestion to New Street (as well as other parts of Musselburgh) and I fear as stated elsewhere in this letter will cause difficulties for family and friends to reach me with their car to take me for medical appointments and shopping. This is causing me a huge amount of mental distress as this is a lifeline for me and the proposals in their current form will limit my ability to travel for essential purposes.

I have mentioned my concern about council budgets being under pressure for essential care. I rely heavily on my carers to allow me to live at home as independently as possible. It is extremely worrying to me that I and many others in my position could be made to suffer if provision is reduced due to pressure on budgets while money is spent without due diligence, or a true understanding of the cost being committed to. East Lothian have a duty of care to all vulnerable groups which includes children and adults.

### **Science/data**

The MFPS does not offer alternative scenarios. It is tied to a 1:200-year climate change event. Scottish Government guidance says that a range of scenarios should be included. I do not believe that East Lothian Council have been given a range of options to judge what is necessary protection leading to potentially incorrect judgements being made by paid and elected officials. The figures provided by SEPA are predictions but by no means a certainty, yet the current proposals appear to take the view that these figures are a certainty.

East Lothian Council has commissioned a report on the coast from Dynamic Coast, which has been reported on in the press ([Beach in East Lothian suffered five years of damage in two days during storm - Edinburgh Live](#)). This report highlights that the planned defences will not work as they are not designed to deal with coastal erosion. It is inconceivable that a decision was made in January without this report being available particularly as it highlights the shortcomings of the current proposals in particular regard to the seashore. There are several highly publicised nature-based solutions already in place within the Forth estuary yet none of these, to the best of my knowledge, seem to have been considered or included in the consultations prior to the current scheme being developed which I believe is a major failing of East Lothian Council in its entirety and falls far short of the governance and diligence we are entitled to expect from appointed staff and elected officials.

I am aware that many residents have asked to see the data underpinning the scientific calculations of the project team, but these requests have been ignored. This concerns me greatly and I would like to be made aware of the reason for this as it does not seem unreasonable for residents to have access to this key information to allow them to assess if they feel the scheme meets the needs of their hometown.

The project team say they have adjusted flood defence heights in response to local feedback. From my own observations this amounts to fitting the science around the preferred outcome, rather than science/data leading to a properly calculated outcome. This makes no sense. I have spent considerable time reviewing the plans on the website with the help of my daughter and I remain unable to identify the height of the walls proposed, however, from discussions I am aware of it will be hard for someone like myself who uses a wheelchair or wheeled walker when outside my home. Our local river is an important amenity for many and being deprived of the opportunity to enjoy this will have an impact on the physical and mental wellbeing of many of my neighbours and fellow residents who enjoy spending time here year-round.

I have lived in Musselburgh for [REDACTED] and the last major flood in Musselburgh was in 1948 [REDACTED] while my own memories are hazy, I remember the discussions for many years afterwards [REDACTED]. Climate



change may mean there is increased risk of flooding in future, but there are communities at much greater and more immediate risk. As I mentioned above Prestonpans, Cockenzie, Port Seton more locally and within Scotland Dumfries, Perthshire etc all seem to be at a greater risk. The damage suffered in North Berwick to the harbour more recently springs to mind as another example of why priorities should be reevaluated by East Lothian Council and the Scottish Government to ensure fiscal funds are spent where the need is greatest, and a plan should be in place for our county.

I understand that East Lothian Council were informed that Natural Flood Management (NFM) should be restricted to three interventions (use of 2 small reservoirs in the Pentlands, and a tree-catcher in Dalkeith Country Park). NFM could include an entire range of techniques to slow the flow of the river throughout the catchments, and to encourage the natural dune system along the coast. I believe it is a huge misjudgement that these were discounted at the start is wrong and the situation is made worse by the exclusion of NFM decided upon in October on the recommendation of Jacobs and backed by the elected councillors.

From my research I am concerned that the evidence presented to our elected officials in October was incorrect and the decision was also influenced by the way this information was presented. NFM, I believe offer longer term benefits to our local environment, those further upstream and offer a more sustainable way to address the flooding risk within Musselburgh especially in view of the climate emergency spoken about by East Lothian Council. I passionately believe that NFM solutions should be central to any scheme taken forward by East Lothian Council.

There are several examples where man-made flood schemes have failed, two of which were here in Scotland. The impact in Brechin of the flood walls failing was highly publicised as was the failing of floodgates in Perth. These evidence that man-made solutions do not prevent downstream flooding. Action is required upstream to ensure the flow of water is slowed or indeed excess water stored so it does not rush downstream causing flooding.

More recently we have seen evidence that the Scottish Government is heading towards NFM with [the Minister stating](#) “The Scottish Government recognizes the importance of natural flood management (NFM) measures in reducing, slowing or otherwise managing flood waters across catchments and along the coast while also delivering multiple environmental benefits.” East Lothian Council have failed to give any sincere consideration to NFM to the detriment in my view of biodiversity within the River Esk and the shoreline at the Forth Estuary. This is a travesty for future generations who will face a bigger battle with climate change without the help of our established trees and wildlife to maintain our environment.

My last point is around the use of concrete to build flood defence. The level of emissions produced in the manufacture of concrete are well documented and, in a report, released by Princeton University in 2020 stated that the manufacture of concrete creates four billion tonnes of carbon dioxide worldwide each year. The level of concrete shown in the outline plans is staggering, together with the impact of the construction itself, additional traffic in Musselburgh and the loss of trees and other biodiversity within the area it could be argued that the proposed flood defences will do more to add to the climate emergency increasing the risk of flooding whereas with NFM there is an opportunity to reduce the risk of rate flood events in Musselburgh while working with rather than against nature.

## **Transparency and process**

My first concern around the lack of transparency is the lack of engagement from our elected representatives to understand the breadth of feeling among residents. There are several documented examples of constituents trying to interact with their elected representatives only to find that the project team were responding to them. This is unacceptable and I believe shows the lack of independence of East Lothian Council and the project team. It is entirely reasonable to expect that elected representatives are speaking for their constituents and respond in a timely and professional manner.

The documents have in the main been published online making it difficult to view the latest plans in their entirety. I do not use the internet to any great extent and without the help of my daughter would have struggled. I believe that this lack of transparency and availability of key information to all members of our community is another element of a flawed process which is designed to disenfranchise many sectors of the Musselburgh community. I would also highlight the lack of transparency to East Lothian residents who will be, by default, funding any potential scheme and its ongoing maintenance yet have been, to the best of my knowledge provided with scant information.

It is disappointing that we as lay people are left spending several hours trying to view and understand the latest plans. This lack of transparency was also evident on 23<sup>rd</sup> January 2024 when agreement to the scheme progressing with given despite councillors having insufficient information an example being the Environmental Impact Assessment (EIA) which they did not have full sight of but voted through on the strength of only a non-technical summary. This is unacceptable and throws doubt, in my view, that the councillors' vote should stand as they voted without all the relevant information being available including the full financial implications with the officer present being unable to give sufficient information regarding the council's ability to meet their liability for this scheme.

I would also highlight that a vote was taken in January 2020 by East Lothian Council Cabinet, however, this was out with their terms of reference, and therefore they did not have the power to do so, as a scheme of this value should have been given the approval of the full council.

I would also like to object as the engineers who have been appointed to design the project were the authors of the Environmental Impact Assessment, I am not sure where else this would be allowed to happen in the private or public sector. The engineers ruled out all alternatives to the current scheme during the options appraisal. This in effect meant that no public scrutiny or debate as none of the alternatives were made available to the community. I would also state that I do not believe that there has been sufficient challenge of scrutiny of the consultants and engineer as when I asked the question about who was qualified within the council to oversee this project at the open days in June not one person could give me a response other than the Designer and Consultants would be advising the council. This shows the complete lack of independence throughout this process and further concern about the openness and transparency at all levels of this proposed scheme.

The plans as submitted are not clear on the fate of the trees affected by the scheme. It is well known the impact that trees have on maintaining environments and the benefits they provide. It is inconceivable that so many mature trees will be lost with the resultant impact and as noted above adding to the climate emergency we are experiencing.

As a resident [REDACTED] I have had no direct engagement with this scheme, nor do I believe there has been sufficient provision for people [REDACTED] who are unable to leave home without support or indeed access information online without support. This is, I believe, a fatal flaw as this has impacted [REDACTED] ability to take part in this process and put forward [REDACTED] views.

### **Multiple benefits and active travel**

My first objection to the proposals is the ramps used to provide access to the bridges. [REDACTED] [REDACTED] rely on someone else to be pushing [REDACTED] in a wheelchair. The extra effort this will involve will prohibit people [REDACTED] from using these bridges as [REDACTED] the physical exertion it would require. The height of the bridges is excessive, and the images provided at the June consultation only showed a view where there had been a significant flooding event which was not accurate and did not allow the public to question the consultants.

The new bridge at Goose Green does not add anything to the flood protection scheme and I, from my own conversations family and friends, can see no local demand for this additional bridge and believe it takes away from the natural beauty of the area as it is, although the current proposed scheme will by default destroy the beauty of our river, destroy wildlife habitats and the biodiversity of this area.

The inclusion of the Musselburgh Active Toun (MAT) proposals does not contribute to flood prevention, and I would argue that the excessive width of the paths will create the need to narrow the river which commonsense would show means any flood water has less space and could actually increase the risk of flooding in the area. Based on my understanding of planning regulations these should be subject to planning permission, however, the flood scheme seems to have conferred permission. I do not believe that the information published clearly shows which parts of the MAT will require planning and which will bypass this as included in the flood scheme. Indeed there seems to be an awful lot of confusion about what is actually currently included in this current phase of the project making it harder for residents to understand the scheme.

The inclusion of MAT ignores the views of many who do not support the extensive paths proposed. As a lifelong resident I am familiar with Musselburgh Lagoons, Goose Green, Eskside and the sea front and believe the existing paths are sufficient for the current level of travel by walkers and cyclists. The unprecedented level of new housing in the area has not seen a significant increase in foot or cycle travel, the same cannot be said of the road network which is under significant pressure which will only be added to by the proposed scheme. I would also highlight that these plans have been extended and developed beyond the scope of the original consultation and discussions.

The final element is the cost of the MAT; however, no figures have been published to show the cost of the scheme. In addition, the cost to East Lothian Council and therefore all residents of East Lothian have never been openly discussed to allow open and informed debate by residents.

### **General amenity, health, and well-being**

I have outlined my concerns above regarding the loss of local amenities many of which are Musselburgh Common Good Land. The proposal shows the extent of the loss of these to the community and the loss of these should be compensated as stated above. I am not alone in enjoying these with innumerable residents and visitors visiting each day. The proposed works mean that there will be no alternative for people to enjoy the outdoors and the river with the inevitable impact on their physical and mental wellbeing.

It is estimated that the project construction will take a minimum of five years causing major disruption. I am reliant on my family and friends as previously mentioned and it is likely they will have difficulty accessing my property with their cars making it harder for them to support me. The increase in traffic within Musselburgh should not be underestimated causing danger to life if emergency services are unable to get through traffic on an already congested High Street which also has many more restrictions due to the change to bus stops and cycle lanes.

As mentioned above I am reliant on my social care workers many of whom rely on cars to travel to clients from their own homes or as part of their daily schedule. The increase in traffic and disruption to movement in Musselburgh is likely to have a significant impact on this sector and it is vulnerable people like me who could be left with the service they are entitled to expect as part of their care package. I am also extremely concerned about the additional stress and worry this will cause to social care workers and other essential workers if they are unable to travel safely and easily to where they are needed.

The recent pile works at Mall Avenue were extremely disruptive and I am concerned about the impact this work will have on surrounding properties in all the affected areas including my own and the damage this could cause due to the level of vibrations during the construction phase which is considerable. The project will take at least 5 years to build. It will be a major cause of disruption.

The figures quoted regarding the number of properties which will be protected by the scheme vary greatly. This information should be clear and transparent and clearly evidenced. I have not seen any evidence of the impact of this scheme on those at risk of flooding in a 1 in 200-year event and the proposals seem excessive. It is also widely acknowledged that there has been no flooding on the beach or Fisherow Links [REDACTED] historically.

Knowledge and methods are continually evolving, the project team themselves seem to be stating that there is no high degree of danger in the next 50 years from the information gleaned from the open days at Eskmills. It would seem prudent to desist from spending exorbitant sums of money now without understanding and exploring sustainable alternatives which will protect our community, our wildlife, habitats and our river and seashore for future generation rather than crumbling concrete which is not maintained and would become a danger.

Recent flooding in Musselburgh appears to be connected to inadequate drains and sewers. Many of the issues with flooding have arisen since the building of new homes in Musselburgh, Wallyford and Whitecraig has grown exponentially. The building of the current proposed scheme will prevent water escaping to the river and there does not appear to be adequate provision for future maintenance of any measures proposed. My daughter asked this question at the open days in June 2023 and was advised that it was a matter for East Lothian

Council who would be responsible for all maintenance costs on completion of the project. No figures have ever been produced for this.

Please acknowledge receipt of my letter of objection, in writing. Please advise me of next steps, and timescales.

Yours Faithfully,

██████████








23.04.24

Carlo Grilli  
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[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

Dear Carlo and team,

I am writing to object to the recently published Musselburgh Flood Protection Scheme as a resident directly affected by the scheme.

I object to the published scheme because:

- **Cost:** The current scheme is already significantly over budget before approval. It could be assumed, based on similar projects track record, that the scheme costs will continue to rise above the current estimate. At a time where the council is reported to be £450million in debt (BBC Shared Data Research as reported in the East Lothian Courier, 16th January 2024). Services in the council are already below standard and under funded which has been noted to me directly in email communications with   
 Amenity Services who described simply managing street and gully cleaning as an “Uphill battle”. This is further evident in the drain issues along the river which cannot be managed to an acceptable level. I therefore object to the cost of this scheme when funds would be better used supporting our existing infrastructure.
- **Parking:** On the final proposed design,  Eskside West has now been designed with the wall being built further in, resulting in the road being updated to a 1 way street and parking being reduced. This street is already jam packed with cars parking, so much so that  often cannot park. The idea that this has been proposed and approved without direct consultation with residents is appalling. The open consultations cannot be grounds for this change and anyone that knows the town will no the issues this will cause. My understanding is that this has been proposed to protect the trees which I support, however the solution remains unfit for purpose and will cause huge issues for residents.
- **Risk to property:** As noted, I live on . The piledriving of the new wireworks flats caused our building to shake and cracks to form throughout the building. I cannot understand how it will be safe to have the current

proposed scheme building works directly outside our property and it not have a damaging impact on our home. Will the council pay for damages caused to properties due to the building of this scheme?

- 1:200 Year Scenario: The scheme is being built on a scenario that residents do not support. It is a scenario that is driving the cost up. Reduce the scenario and reduce the defenses. Speaking to the engineering team at consultations they have said numerous times that the tidal flood risk only reaches to downstream of the Rennie Bridge, can a scheme then not be created that protects the town from this, and then upstream natural reservoirs be used to slow the flow of water that would reduce the risk of stream flooding.

Please acknowledge receipt of my letter of objection, in writing. Please advise me of next steps, and timescales.

Yours Faithfully,

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

12<sup>th</sup> April 2024

Carlo Grilli  
Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA  
[REDACTED]

Dear Mr Grilli

I am writing to object to the recently published Musselburgh Flood Protection Scheme (MFPS).

While I am not directly affected by the scheme in that we live [REDACTED] behind the river my property will be directly affected during the 5-year construction period. The construction will be a major cause of disruption to the whole of Musselburgh. In addition, there will be pile-driving all along the river. This will cause a huge level of noise pollution and as I work from home this will impact me directly. Also, my property is over 200-years old and the “invisible” damage that the pile-driving and construction in general may cause to my property is of great concern.

We as a family use the riverside, beach and surrounding areas on a daily basis to walk our dogs and as part of our mental wellness to get out and about in nature.

My [REDACTED] in the river every year and part of our decision to move to Musselburgh four years ago was because of this amenity.

As a local resident I do not agree to the proposed amount of public expenditure on the Musselburgh Flood Scheme, given the economic situation we are currently living in there are surely more pertinent areas for this money to be spent on.

I object to the published scheme because:

1. Not enough research, time or inclusion has been made for nature based solutions. Very little, if any at all, of the proposed scheme includes any nature based solutions. The MFPS does not offer alternative scenarios. It is tied to a 1:200 year +climate change event. Scottish Government guidance says that a range of scenarios should be



included. How can the Council judge what is necessary protection without being given a range of options?

East Lothian Council has commissioned a report on the coast from Dynamic Coast, but this is not yet available publicly – why and how is the Council making a decision without being open about all the evidence?

Local residents have asked to see the data underpinning the scientific calculations of the project team, but these requests have been ignored. What is the reason for the lack of transparency?

The project team say they have adjusted flood defence heights in response to local feedback. This amounts to fitting the science around the preferred outcome, rather than science/data leading to a properly calculated outcome. This makes no sense.

The last major flood in Musselburgh was in 1948. Climate change may mean there is increased risk of flooding in future, but there are communities at much greater and more immediate risk – Dumfries, Haddington, Perthshire etc. Scarce resources should be applied in order of need.

The Council was informed that Natural Flood Management (NFM) should be restricted to 3 interventions (use of 2 small reservoirs in the Pentlands, and a tree-catcher in Dalkeith Country Park). NFM could include a whole range of techniques to slow the flow of the river throughout the catchments, and to encourage the natural dune system along the coast. The fact these were discounted at the start is wrong and the situation is made worse by the exclusion of NFM decided upon in October.

The Council halted inclusion of NFM on the advice of the project team in October 2023. The evidence to support this was a report on the Eddleston Water project. That report is flawed, and the science behind the report was presented to the Council in a misleading way. NFM can and should take centre-stage in flood protection.

All the indications are that the use of NFM, nature-based solutions and a flood resilience (rather than prevention) approach are preferred over building flood walls. Even in massive river catchments like the Severn, these approaches are being discussed and trialled. The flood walls in Brechin (built/renewed 2015) recently failed. The flood gates in Perth recently failed. Man-made interventions cannot prevent flooding downstream – we need to do more upstream to slow/store the water so it doesn't rush down through the town.

The Scottish Government is heading towards NFM. On 23 December 2023, they announced "The Scottish Government recognises the importance of natural flood management (NFM) measures in reducing, slowing or otherwise managing flood waters across catchments and along the coast while also delivering multiple environmental benefits." Why is ELC not in step with the Scottish Government?

2. Secondly, I object to the published scheme on the basis of cost. The scheme is currently costed at £132m in total, including £53m for the flood protection part. It would appear that there are no cost breakdowns in the public domain. The Council has been told the cost is likely to rise. How can the Council have voted this through with so little information? Why has no cap been put on the cost?

As at December 2023 it is my understanding that £4million has been spent on design and consultations against a decreasing budget available for core Council services such as care for the elderly, essential community health and wellbeing amenities: libraries, leisure and culture (e.g. Brunton Hall repairs). It would appear that the budget/spending priorities of the Council are wrong.

The Scottish Government & COSLA working group on flooding has recognised the model of uncapped funding (known as Cycle 1) allows project consultants/developers to expand flood schemes into much larger, and more costly, projects. The escalating costs of this project should be scrutinised and capped to prevent further inflation of project and costs.

The Council has been told that if they do not secure the Cycle 1 funding, they will get nothing. But this is not true, there will be funding in Cycle 2, which should be onstream after April 2024, and Musselburgh would be eligible.

3. Thirdly, I would question the transparency and process of the scheme. The engineers appointed to design the project have also been allowed to write the Environmental Impact Assessment (EIA). They carried out an options appraisal that ruled out all alternatives to the current scheme, without those options being made available for public scrutiny or debate. Throughout the scheme the consultants and engineers have not been subject to challenge or adequate scrutiny. On 23 January 2024, the Council agreed to the scheme progressing, even though they had not had sight of the full EIA, only a 'non-technical summary'.

In January 2020, East Lothian Council cabinet voted through the preferred scheme. Given the value of the scheme, this should have been approved by the full Council. The Cabinet did not have the power to vote on a scheme of this magnitude.

Local residents have tried to engage with their Councillors, but I am told that letters and emails that were responded to were sent to the Project team to provide the response. If challenged, the Project team advise they are taking instruction from the Council. The lines between the Council and the project team are totally blurred.

It is also my understanding that many people have sent letters and emails and received no response at all.

4. The scheme has become entwined with the Musselburgh Active Toun (MAT) proposals. However, the cost of the MAT scheme is unknown and is likely to require a 30% contribution from ELC, which has never been openly discussed. MAT proposals do not contribute to flood protection. Planning permission should be required for

these paths and bridges, but the flood scheme has deemed permission. It is not clear which parts of the MAT will bypass planning due to being included in the flood scheme. The proposed new Goose Green bridge does not add flood protection to the town. The MAT proposals included in the scheme are now much grander than those originally discussed and consulted upon

5. The project will take at least 5 years to build. It will be a major cause of disruption. There will be pile-driving all along the river. There are many historic properties in the centre of the town at risk of damage from vibration, not to mention privately owned homes. There is likely to be a loss in capital value to our homes because of the work. I would also insist on an independent survey on affected properties prior to work starting that is paid for by the scheme. Should any damage be caused by the works I would again insist that this is the responsibility of the scheme.

The banks of the Esk and Fisherrow Links are Common Good land, and any interruption to their use by the community should be compensated. Hundreds of people enjoy these amenities every day, where will we go to benefit from being in nature and by water? As stated previously we as a family use the river bank on a daily basis and having this amenity taken away should be compensated for by ELC.

Is it clear how many properties will be included as being 'protected' by the scheme? The number has risen and is variable on numerous documents from around 1,200 to 3,000 to 3,400. What is the truth? Where is the robust evidence? To achieve a viable amount of 'multiple benefits' there has to be a high number of properties protected and this scheme seems led by that consideration rather than by the actual risk.

Please acknowledge receipt of my letter of objection, in writing and please advise me of the next steps and timescales.

Yours sincerely

██████████

**Subject:** (0448) Objections  
**Sent:** 23/04/2024, 22:17:27  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** [REDACTED]

You don't often get email from [REDACTED]. [Learn why this is important](#)  
**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

I object to the proposed scheme as I have an interest in the land affected by the scheme and scheme operations at [REDACTED] and [REDACTED]. I understand from the drawings my access and right of way to the shoreline will be blocked by the flood wall defence with no access to the beach from just outside my home. I use the beach where I live regularly to observe and photograph the abundant bird population and to exercise. This is good for my mental health. I also walk daily along the coastline for health benefits. A coastal sea defence with limited access and any scheme compound and scheme works will directly impact my and my family's ability to continue to do so and disturb my enjoyment of the land. If the scheme proceeds in its present form without amendments I expect to be compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).

I object because there is no clear material describing the councils mechanism to compensate me if the works or related works traffic damage our property, in particular the road access [REDACTED] next to the pumping station

I object because we run a licensed holiday let property [REDACTED] where tourists who bring money into the economy are attracted to book because of the close proximity to the beach – a beach they will no longer have access to unless they walk half a mile. I believe there will be an impact to our business and there is no information from the council for any compensation for this.

I object because I believe having no access to or from the beach at the [REDACTED] (top end) coast will encourage dangerous climbing over the existing embankment and rocks to get to the sea rather than walk to Murdoch Green [REDACTED]. I also believe that a significant danger will exist if walkers cannot readily get off the beach just beyond Brunstane Burn in the event of a fast tide. I have already pointed this out in writing to the project team during consultations.

I object that the historic bridge next to the pumping station is not mentioned in the plans and that no mention is made of preserving and protecting it.

Yours faithfully

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Carlo Grilli

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

23<sup>rd</sup> April 2024

Dear Mr. Grilli,

I am writing to object to the recently published Musselburgh Flood Protection Scheme.

I write as a frequent visitor to the Esk river and the Musselburgh lagoons. I also volunteer as a bird counter with the [REDACTED] and collect data for the [REDACTED]. In Scotland, as with the rest of the UK, we have singularly failed to steward our natural habitats for the last couple of centuries.

I object because the Environmental Impact Assessment (EIA) Report that East Lothian Council has commissioned does not meet the necessary requirements set out in EIA guidance and does not allow East Lothian Council to fulfil its biodiversity duties. Specifically:

#### Inadequacy of the EIA Report's Ornithology Baseline

The results presented in the EIA Report from surveys of shoreline and coastal birds (the 'through the tide counts') are insufficiently detailed to adequately assess the impacts of the Scheme on these species. This failure is especially important because the Scheme is adjacent to, or in places actually within, the Firth of Forth Special Protection Area (SPA), the Firth of Forth Ramsar Site, the Firth of Forth Site of Special Scientific Interest (SSSI), and the Outer Firth and the St. Andrews Bay Complex SPA. These are internationally and nationally important designated sites for birds, and any assessment of impacts on these designations require must be informed by comprehensive robust and appropriately detailed baseline data. The EIA Report does not present such data.

It is therefore essential that baseline bird survey data are properly presented, specifically that the distribution and abundance of qualifying features of the SSSI, SPAs and Ramsar site at least are mapped to species level and their abundance shown for each survey area (notably through the tide count survey areas), along with the key areas for roosting and foraging of those species. Without this information, the EIA lacks the necessary detail to enable consultees to judge whether or not the applicant's assessment of impacts from the Scheme is correct. Consultees cannot therefore also judge whether proposed mitigation measures are adequate, or whether the identification of residual impacts on birds can be relied upon. For all these reasons, the

baseline survey data in the EIA in its current form is not fit for purpose. It needs to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report. As additional bird surveys are still being undertaken, the more detailed results requested can be published at the same time as these additional data (but all to the appropriate level of detail).

On top of this failure to present survey results to the required level of detail for such a sensitive area and for such important species, the desk study component of baseline data collection has also been inadequate. To accord with EIA guidance<sup>1</sup>, baseline bird data should comprise both survey results and relevant pre-existing data on bird species present, their national and local population trends, and insights into their relevant behaviour. The Firth of Forth has been the subject of intense ornithological study spanning several decades<sup>2</sup>, and it is reasonable to expect that this body of data would have been drawn upon for the EIA Report, not least given the sensitivity of the area and the need to design appropriate and effective mitigation measures for construction impacts and impacts over the 100 year operational life of the Scheme. The desk study data included in the EIA also fails to meet the requests from key stakeholders. Notably, for example, the East Lothian Biodiversity Office who requested in their Scoping Report (see ELC on 28th November 2023, EIA Appendix C3.2) that *'The field surveys should be informed by a data search from ... useful data (that) may be available from sources including the East Lothian Council Ranger Service, British Trust for Ornithology and Scottish Ornithologists' Club'*.

Starting with the Scottish Ornithologists' Club, the EIA fails to incorporate into its ornithology baseline any of the comprehensive pre-existing bird data that exists for the Scheme area, collected over several years by highly experienced local ornithologists, many with decades of expertise in the area's bird life. It would be expected, at the very least, that given EIA guidance<sup>3</sup> and to comply with the request from East Lothian Council's own Biodiversity officer that the EIA authors would have submitted a data request to the Local Bird Recorder of the Lothian Branch of the Scottish Ornithologists' Club (SOC) to obtain relevant bird records for the area impacted by the Scheme. This was not the case, and therefore the EIA ornithology baseline suffers by not having the detailed insights into species presence, abundance, distribution and behavioural patterns to adequately inform its assessment (including of cumulative impacts), mitigation design and proposals for enhancement. This is particularly the case for the assessments of impacts from the Scheme's construction compounds, the seawall improvement works, and the two sections of the Musselburgh Active Travel Network (ATN).

Moving on to obtaining desk study data from the British Trust for Ornithology (BTO), this key organisation administers a number of bird recording schemes, including the Wetland Bird Survey (WeBS), which cover this area. It is EIA good practice, as part of gathering desk study data for developments in coastal areas, to obtain and present WeBS results, alongside survey data. Bird surveys commissioned for EIAs are inevitably restricted to relatively short-term sample surveys, comprising snapshots of bird activity. The WeBS scheme and its predecessor have been running for decades and provide important long-term insights into species composition and abundance of waders and wildfowl of key sites, and long-term population trends. In particular, for large designated sites like the Firth of Forth SSSI/SPA/Ramsar, WeBS

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<sup>1</sup> See the Environmental Impact Assessment Handbook: Guidance for competent authorities, consultation bodies, and others involved in the Environmental Impact Assessment process in Scotland Version 5, April 2018. NatureScot and Historic Environment Scotland.

<sup>2</sup> E.g. Bryant, D. (1987) The Natural Environment of the Estuary and Firth of Forth. *Proceedings of the Royal Society of Edinburgh, Section B: Biological Sciences*, Volume 93, Issue 3-4, pp. 509 – 520 DOI: <https://doi.org/10.1017/S0269727000006916>

<sup>3</sup> For example, see C.6.3 and Box C. 6. Practice .1. in the reference cited in Footnote 1.

data are also essential to place local bird populations (i.e. the birds present in the Scheme area) in their wider Firth of Forth context, so that impacts from the Scheme, and cumulatively with other projects, can be adequately assessed. Whilst it is noted that in Section 7.3.3 of the EIA it states that the desk based assessment included data responses from organisations including the BTO, detailed WeBS data are not provided. The reference to WeBS data is limited to total species counts (in the EIA Section 7.5.6.1 'Desk-study and preliminary ecological appraisal'). This states:-

*'Data obtained during the desk-based assessment identified the potential presence of the following protected species within the study area:*

- *Wintering wetland birds: the BTO Wetland Bird Survey (WeBS) data for the five-year period from 2013/14 to 2017/18 identified a total of 70 species of wetland birds (which includes unidentified and hybrid species) within the Eastfield to Musselburgh WeBS sector. Of these 70 species, 55 were recorded in the winter months during this period. The five-year mean peak count of wetland birds within the Eastfield to Musselburgh WeBS sector is 4,878 individuals, with a five-year winter mean peak recorded as 5,259 individuals (see Appendix B7.4 for details)'*

Instead of these agglomerated count figures, the EIA Report should provide the species-specific WeBS data. Furthermore, and contrary to the Chapter's statement that details of WeBS data are provided in Appendix B7.4, there are no details provided on the WeBS data for the area in that Appendix. What is required for the EIA (and HRA) is a map of the WeBS count sector to compare with the survey areas used for the through the tide counts, and for the WeBS data to be tabulated by species, comparing abundance figures from the survey work. Neither are presented in the Biodiversity Chapter or any of the published EIA Report Appendices.

Lastly in relation to the WeBS data, the totals that are presented are out of date, being '*from 2013/14 to 2017/18*'. The desk study for the EIA should have obtained the most recent five-year dataset available, i.e. up to the 2022/2023 non-breeding season, to help inform the assessment.

The inclusion of detailed WeBS data is common practice in EIAs (and HRAs) for coastal developments, in particular where developments overlap or are in close proximity to internationally important sites designated for their bird interests. As already highlighted, without these details, it is not possible to contextualise or corroborate the survey data provided by the applicant. This and the wider omissions in desk study data need to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report.

#### Baseline Survey Accuracy

The bird survey data on which the Scheme's EIA Report depends appears to contain apparent anomalies, with some species noted that either have only very rarely ever been recorded locally and other species which may be mis-identified. The inclusion of these records undermines confidence in the reliability of bird (and other) survey work carried out for the EIA Report, and also in the rigour of the quality assurance processes that have been applied during the collection, processing and writing up of data used in the EIA Report. Specific examples include records of Stone-curlew, Water Pipit, Twite breeding, "flyover" Wood Warbler, Whimbrel in November, a Kittiwake flying up the river Esk (Appendix 7.4). Based on over 60 years of data held by the SOC, these records require verification. The almost daily coverage by experienced birdwatchers over the survey period also points to other anomalies, such as occasions when a large count of Velvet Scoters is reported in the EIA Report at a time when only a Common Scoter

flock was present. Such questions on the reliability of the survey data are critical, given the conservation importance of qualifying features of the Firth of Forth SSSI, SPAs and Ramsar sites and Outer Forth and St Andrews Bay Complex SPA in such close proximity (and in some areas, overlapping) with the Scheme. It also underscores the importance of consultation with bodies such as the SOC and BTO to ensure that pre-existing data for the Scheme area are obtained, adequately used to aid data validation and quality assurance, and properly integrated into baseline data.

One further concern over the baseline survey surveys is the validity of the ‘through the tide counts’ which coincided with the construction activity for the new lagoons between 2021 to June 2023. Given that the EIA Report acknowledges that construction traffic along the seawall will cause disturbance to birds (including qualifying features of the Firth of Forth SSSI, SPA and Ramsar site), evidently the results from these surveys were not representative whilst the lagoon construction was on-going. NatureScot guidance on bird surveys clearly highlights the principle that surveys should not take place where there is disturbance that may change the abundance, distribution or behaviour of birds within the survey area<sup>4</sup>. This precaution has not been followed therefore, and it further undermines the reliance that can be placed on a significant proportion of bird survey data used in the EIA Report.

It is understood however, that bird surveys are still being carried out, I therefore object until these un-impacted additional bird survey results are published as part of the submission of Further Environmental Information and HRA.

#### Failure to Identify and Assess Habitat Loss from the Scheme

The EIA Report attempts to identify and quantify the loss of habitats from the Scheme, to assess the significance of these losses, the mitigation that will be required and the resulting residual impacts and their significance.

However, it completely fails to identify the main habitat impact from the Scheme, namely the loss of shoreline and inter-tidal habitats over its 100-year operational life. These losses will occur as a direct result of the Scheme’s construction of hard defence structures along the coast where these are currently absent or limited, through what is known as ‘coastal squeeze’. This impact needs to be fully identified and assessed in the EIA Report, in particular the Scheme’s proposed hybrid wall structures at Work Sections 6 and 7 (impacting 325m and 290m of coastline respectively) and its concrete walls along Work Sections 8 and 9 (impacting 393m and 132m of coastline respectively) (see Table 4-2 ‘Summary of Scheme by work section’ in Section 4.4.1 Scheme Layout Overview, and Figures Appendix A41j to A41l in Appendix A of the EIA Report). The existence of this operational impact is not even mentioned in the EIA Report Biodiversity Chapter, let alone assessed, with only the most cursory mention given in 7.5.9.3 ‘General trends’. The EIA Report therefore does not meet its own commitment (in Section 3.6.2 ‘Future baseline’) to complete ‘*Where appropriate, an appraisal of the future baseline without the Scheme ... where feasible to allow for consideration of the operational impacts of the Scheme over its 100-year design-life*’.

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<sup>4</sup> Although relating to bird surveys for wind farms, the importance of avoiding construction disturbance that may affect survey results is made clear in Section 2.1.1 and Box 1 in NatureScot (2017) Recommended bird survey methods to inform impact assessment of onshore wind farms. March 2017, Version 2.



This is of particular concern because these habitat losses will impact the qualifying features of the Firth of Forth SSSI, SPA or Ramsar Site (and the conservation objectives of the latter two designations).

The omission of this impact in the EIA Report must be rectified and the necessary modelling and full assessment of habitat loss from coastal squeeze be fully assessed and published as Further Environmental Information. The assessment of these habitat losses on the integrity of the Firth of Forth SPA and Ramsar Site must also be included in the HRA, to inform the compensation that will be required, if should a derogation case be accepted.

Given how important this impact is, it is also worth re-stating the Council's published Scheme objectives (EIA Report Chapter 4, Section 4.1 and Table B4 in Appendix B4) that include the following Environmental Objectives:-

- 1. That the Scheme will achieve as a minimum a neutral impact on the environment.*
- 2. To ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures.*
- 3. To ensure that the Scheme considers the impact of climate change and includes appropriate provisions to mitigate any impact.*
- 4. To ensure that the Scheme considers in full, and includes for any appropriate measures, to protect the Firth of Forth and its protected statuses.*

Clearly, these objectives cannot be achieved if the Scheme's impacts are not adequately identified, assessed, and mitigated and if mitigation or enhancement proposals (such as those in EIA Report Table 7.7) are not considered in terms of resilience to sea level rise and climate change.

In addition to failing to include operational habitat loss, the habitat loss figures that are currently included for construction and operational impacts lack clarity and consistency across the Biodiversity Chapter and Appendices. For example, the extent of temporary lost habitat given in Section 7.6.2.1.1 'Firth of Forth SPA and Ramsar' is given as 'approximately 2.14 ha' but the habitat breakdown figures only add up to 1.711 ha. Similarly in Section 7.6.3.1.1 'Firth of Forth SPA and Ramsar', the permanent loss of habitat from the Firth of Forth SPA and Ramsar is given as 4.3 ha, but again the figures for the habitats lost amount to just over 1.46 ha. This lack of clarity and inconsistencies in the EIA Report make it difficult for consultees to clearly understand the scale or location of the Scheme's habitat impacts. It is important that these losses are clarified, including in the HRA prior to its finalisation, and if necessary, through the submission of Further Environmental Information.

#### Failure to Appropriately Identify Plans and Projects to Consider for the Cumulative Impact Assessment

Section 7.3.9 'Cumulative effects' of the EIA Report identifies that 'A review of developments in the local area as listed on the East Lothian and Midlothian Council planning portals was conducted. The assessment focused on developments of any size within the working areas and those over 1 ha in size up to 5 km from the working areas in Musselburgh and the reservoirs. In addition, Grangemouth Flood Protection Scheme (GFPS) was also considered as part of the assessment, as requested by NatureScot during consultation for GFPS'.

The cumulative assessment needs to encompass developments that have significant potential to impact key ecological receptors. The potential for cumulative/in combination impacts is determined by impact pathways, not by arbitrary thresholds such as development size or distance from the Scheme (neither of which have any regulatory basis or reflect CIEEM guidance)<sup>5</sup>. Movement of birds around the Firth of Forth SPA/Ramsar site have been relatively well studied, and this information should be referred to in order to help determine potential impact pathways, and thereby the plans and projects that need to be taken account of in the cumulative/in combination assessment. It is important that this impact/pathway/receptor approach is adopted in the HRA's 'in combination' assessment, if made available to consultees, otherwise through the submission of Further Environmental Information.

### Repeated Lack of Evidence to Substantiate the Findings of the Impact Assessment

In order to comply with EIA guidance, it is essential that the assessment of impacts is supported by appropriate evidence. However, the EIA Report consistently fails to provide evidence to back up the assessments made on construction and operational impacts of the Scheme on birds.

The rare instance when evidence and published peer reviewed information is referenced in support of the assessment of impacts is for kingfisher (see section 7.6.2.3.4). Kingfisher is only a species of regional importance, yet the EIA Report's assessments of impacts on internationally or nationally important bird species are repeatedly made without any reference to peer reviewed or other evidence, or even to standard NatureScot guidance (for example, in relation to disturbance, Goodship and Furness 2022<sup>6</sup>). A typical example of unsupported assertions is in Section 7.6.3.1.1 'Firth of Forth SPA and Ramsar', which states 'The remaining area to be lost within the SPA is comprised of habitat rarely used by qualifying species and therefore is considered unlikely to provide functional habitat'. There are no data presented to back up this assessment, since the EIA and its Appendices omit the necessary detail on the distribution and abundance of individual species.

This is a clear omission and weakness in the EIA Report, is contrary to guidance and good practice, and reduces the reliance that can be placed on the assessment or effectiveness of mitigation proposed. It also falls short of the robustness and detail of EIAs for other developments in the area<sup>7</sup>. Furthermore, East Lothian Council, who commissioned the EIA, has an actual duty to protect and enhance biodiversity. This duty cannot be adequately discharged without detailed baseline EIA (and HRA) bird data from which impacts on birds or other wildlife can be assessed, mitigation designed, and residual impacts identified.

It is also important to note that for the HRA the best available scientific evidence must be used, and the Council, given its Scheme objectives and biodiversity duties, must ensure that this is the case, being responsible for commissioning the EIA Report (and HRA).

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<sup>5</sup> Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. September 2018 Version 1.2 - Updated April 2022

<sup>6</sup> Goodship, N.M. and Furness, R.W. (2022) Disturbance Distances Review: An updated literature review of disturbance distances of selected bird species. NatureScot Research Report 1283.

<sup>7</sup> See, for example, the inter-tidal and near-shore bird data presented in Appendix 6C: Intertidal and Near-shore Bird Surveys of the Inch Cape Onshore Transmission Works EIA report (ICOL, 2018b) at [OnShore-EIA-Appendix-6C-1of-2.pdf \(inchcapewind.com\)](#) and [OnShore-EIA-Appendix-6C-3of-4.pdf \(inchcapewind.com\)](#). Others include the EIAs for [SSE Seagreen 1A](#) and for the Cockenzie Combined Cycle Gas Turbine Power Station application.

## Repeated and Unsubstantiated Downplaying of Conservation Importance and Impacts in the Assessment

There are repeated instances in the EIA Report's Biodiversity Chapter where assessments of impacts on birds downplay (i) the value of their habitats - because it is stated they are already subject to disturbance, or (ii) the significance of disturbance to birds - because it is stated they will move elsewhere within the SPA, or (iii) impacts being insignificant - because the area of impact is small. These assertions are consistently unsubstantiated by evidence (as already highlighted above) and are a style of assessment more typical of commercial developers seeking to justify damaging protected sites. These assertions are inappropriate in those circumstances, but are totally inappropriate for Councils, given the legal and policy obligations they are under to protect and enhance biodiversity, notably the Nature Conservation (Scotland) Act 2004 and National Planning Framework 4 (NPF4). Furthermore, no reference is made to the fact that many wildfowl and wader populations in the Firth of Forth have already suffered long-term declines as a result of development impacts, disturbance and habitat loss<sup>8</sup>, and that approximately one third of the Firth of Forth SPA/Ramsar's qualifying species are in unfavourable conservation status (Protected Nature Sites ([sepa.org.uk](http://sepa.org.uk)), accessed 19.04.2024). The Council's around the Firth of Forth, together with the Scottish Government, NatureScot, businesses and local communities, need to be working together to ensure qualifying features of the SSSI, SPA and Ramsar site return to favourable conservation status.

Examples of the unsubstantiated downplaying of conservation importance of habitats or species, and of impacts are, for example, in Table 7-5 Summary of Baseline Conditions and Evaluation of Importance of Ecological Features, which includes the statement that 'The sand dunes within the study area are narrow and disturbed; therefore, it is considered they do not meet the SSSI designation criteria'. In Section 7.6.2.1.1 'Firth of Forth SPA and Ramsar', another unsubstantiated statement is made, 'The area temporarily lost during construction constitutes a narrow linear area adjacent to the coastline which experiences high levels of disturbance from public use. This area is not considered to be important habitat for qualifying interests of the Firth of Forth designated sites, in comparison to the large expanse of sand flats along the coastline and the lagoons at Levenhall Links'. There is, however, no evidence to back up these assertions, on factors such as prey availability, carrying capacity, exposure to disturbance, or any of the other influences that need to be considered in order to robustly assess these impacts. The same applies in the assessments made in Sections 7.6.3.1.1 Firth of Forth SPA and Ramsar, 7.6.3.1.2 Outer Firth of Forth and St Andrews Bay Complex SPA, and 7.6.3.1.3 Firth of Forth SSSI. These are sites of international and national importance for conservation, already under significant multiple pressures, and it is essential that assessments of impacts are evidence-based and robustly reasoned. This is not the case currently, and this must be rectified. It is therefore essential that the Council (or Scottish Ministers) exercise the right to request further evidence, through Further Environmental Information and in the finalised HRA, in accordance with EIA guidance (see for example, NatureScot and Historic Environment Scotland (2018), referred to in Footnote 1, specifically Section D. 6), before confirming the Scheme.

## Disturbance to Birds During the Scheme's Operational Phase

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<sup>8</sup> e.g. McLusky, D., Bryant, D. and Elliott, M. (1992) The impact of land-claim on macrobenthos, fish and shorebirds on the Forth Estuary, eastern Scotland. *Aquatic Conservation: Marine and Freshwater Ecosystems* Volume 2, Issue 3, pp. 211-222, or Dwyer, R. (2010) Ecological and anthropogenic constraints on waterbirds of the Forth Estuary: population and behavioural responses to disturbance. *Environmental Science, Biology*.

Related to the point of objection above on lack of evidence to support the assessments on international and national designations (in Sections 7.6.3.1.1, 7.6.3.1.2 and 7.6.3.1.3), the EIA Report notes that:-

*'The improvements to the active traffic network (particularly along the seawall and at the proposed Goose Green Footbridge) may result in increased pedestrian and cyclist traffic, which may create increased operational disturbance to qualifying bird species'.*

Evidently the Council's EIA Report makes it clear that it is uncertain whether or not the ATN works will result in increased active travel, in which case how can the expenditure, additional risk of impacts on internationally and nationally important designated sites, and carbon footprint of constructing these two ATN elements of the Scheme be justified? Without strong independent evidence that there will be sufficient active travel benefits, these two elements need to be removed from the Scheme (not least as there are already footpaths and cycle paths along these sections of the Scheme coastline).

That objection aside, these EIA Report sections contain no evidence to support the assessments made operational disturbance, and as such they are unsupported conjecture. This needs to be rectified (including in the HRA), firstly by inclusion of clear evidence-based and quantified prediction of the level of increased activity as a result of the ATN path and Goose Green Foot Bridge construction, compared to present levels<sup>9</sup>, and secondly by ensuring the assessment of disturbance impacts on each qualifying species of the SPAs, Ramsar and SSSI are made on the basis of these predicted operational levels of activity, and supported by an appropriate level of detail and evidence.

Until such time as these are provided, I object to the Scheme.

#### Impacts on Recreational Amenity Over the Construction Period, Specifically Birdwatching

Musselburgh is one of the most visited birdwatching sites in Scotland (based on the number of referrals to the Musselburgh entry on the SOC's 'Where to Watch Birds in Scotland' mobile app), enjoyed by hundreds of visitors every year. This tourism and amenity value of the Scheme area for birdwatching is not given recognition in the EIA Report, and as a result there is insufficient attention given to mitigating disruption to this activity. This is significant because, as noted in EIA Report Section 4.7.3 'Sequencing of construction work', the Scheme's construction phase could take a period of five to ten years, imposing long-term damage to the area's use and reputation as an ornithology visitor attraction.

#### The Decision to Date by East Lothian Council Not To Publish the Draft HRA

No access has been provided to the current draft HRA for the Scheme. It would be greatly appreciated if the HRA could be made available by the Council, not least because, it would provide those with detailed local knowledge of the area's birds to provide useful feedback. In addition, in the meantime, it is respectfully suggested that the Council make a request to the SOC for relevant pre-existing bird data, and also to BTO, for species level and up-to-date WeBS data, so both sets of information can be included in the HRA and used as evidence to contribute to a robust assessment of effects from the Scheme alone and in combination with other plans and projects.

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<sup>9</sup> Presumably these estimates are available from the business case for use of public money on the Musselburgh Active Travel Network.

Please acknowledge receipt of my letter of objection, in writing. Please also advise me of next steps, and timescales. Thank you very much.

Yours Faithfully,

A solid black rectangular box used to redact the sender's name and signature.

To: Service Manager - Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

This letter of objection to the Musselburgh Flood Protection Scheme is being sent by email to:  
[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

From: [REDACTED]

Residing at: [REDACTED]  
[REDACTED]  
[REDACTED]

Email: [REDACTED]

Please acknowledge receipt of this letter of objection by return.

Each objection should be responded to on an individual basis.

My preferred method of communication is via email – you do not have my permission to phone me or visit my home address.

## Statement of My Reasons of Objection to The Musselburgh Flood Protection Scheme

My name is [REDACTED]. I currently live in [REDACTED]. My brother, [REDACTED], lives on the River Esk and I also have friends who live in Musselburgh. I therefore have a personal interest in what you are planning for the area. I visit my brother often. Musselburgh is a beautiful place and what you have planned will ruin it.

I object to the scheme because your designs will make the riverside look terrible. You will remove huge areas of beautiful grass, add large embankments and high walls that will stop people from being able to see the river and are building bridges with massive ramps that will look terrible. I'd like to think the planet will be safe for my kids and grandkids and the environment is important to me. The Green party Councillor voted no and I trust their judgement. The environmental impact of the scheme will be too high. There seems to be doubt over the science you are basing things on and you haven't commissioned any independent peer review of your plans and modelling.

I believe you also have made a mistake in trying to remove the Musselburgh Active Toun from the flood plans at the last minute and this looks to have caused serious issues.

I look forward to hearing from you.

Yours faithfully

[REDACTED]  
23 April 2024

Carlo Grilli

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

22 April 2024

Dear Mr. Grilli,

I am writing to add my voice to the objections raised by others to the recently published Musselburgh Flood Protection Scheme.

As a recent transplant to the [REDACTED] area, I have a keen appreciation of the unique asset that Scotland has in the Musselburgh area. It is unique in many aspects, not the least being the close proximity of an unparalleled site of importance for bird populations within such close proximity to a world class city. I and many other members of local birding groups frequently access the area to observe, document and appreciate the bird life, as well as other wildlife. Having seen the plans for the new flood protection scheme, it seems clear that that the proposed changes to the area will significantly degrade this important natural resource, much to the detriment of not just the birds, but for all of us who live in the area.

I share the following concerns of many others who value Musselburgh as a site of international importance:

The Environmental Impact Assessment (EIA) Report that East Lothian Council has commissioned does not meet the necessary requirements set out in EIA guidance and does not allow East Lothian Council to fulfil its biodiversity duties. Specifically:

Inadequacy of the EIA Report's Ornithology Baseline

The results presented in the EIA Report from surveys of shoreline and coastal birds (the 'through the tide counts') are insufficiently detailed to adequately assess the impacts of the Scheme on these species. This failure is especially important because the Scheme is adjacent to, or in places actually within, the Firth of Forth Special Protection Area (SPA), the Firth of Forth Ramsar Site, the Firth of Forth Site of Special Scientific Interest (SSSI), and the Outer Firth and the St. Andrews Bay Complex SPA. These are internationally and nationally important designated sites for birds, and any assessment of impacts on these designations require must be informed by comprehensive robust and appropriately detailed baseline data. The EIA Report does not present such data.

It is therefore essential that baseline bird survey data are properly presented, specifically that the distribution and abundance of qualifying features of the SSSI, SPAs and Ramsar site at least are mapped to species level and their abundance shown for each survey area (notably through the tide count survey areas), along with the key areas for roosting and foraging of those species.



Without this information, the EIA lacks the necessary detail to enable consultees to judge whether or not the applicant's assessment of impacts from the Scheme is correct. Consultees cannot therefore also judge whether proposed mitigation measures are adequate, or whether the identification of residual impacts on birds can be relied upon. For all these reasons, the baseline survey data in the EIA in its current form is not fit for purpose. It needs to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report. As additional bird surveys are still being undertaken, the more detailed results requested can be published at the same time as these additional data (but all to the appropriate level of detail).

On top of this failure to present survey results to the required level of detail for such a sensitive area and for such important species, the desk study component of baseline data collection has also been inadequate. To accord with EIA guidance<sup>1</sup>, baseline bird data should comprise both survey results and relevant pre-existing data on bird species present, their national and local population trends, and insights into their relevant behaviour. The Firth of Forth has been the subject of intense ornithological study spanning several decades<sup>2</sup>, and it is reasonable to expect that this body of data would have been drawn upon for the EIA Report, not least given the sensitivity of the area and the need to design appropriate and effective mitigation measures for construction impacts and impacts over the 100 year operational life of the Scheme. The desk study data included in the EIA also fails to meet the requests from key stakeholders. Notably, for example, the East Lothian Biodiversity Office who requested in their Scoping Report (see ELC on 28th November 2023, EIA Appendix C3.2) that *'The field surveys should be informed by a data search from ... useful data (that) may be available from sources including the East Lothian Council Ranger Service, British Trust for Ornithology and Scottish Ornithologists' Club'*.

Starting with the Scottish Ornithologists' Club, the EIA fails to incorporate into its ornithology baseline any of the comprehensive pre-existing bird data that exists for the Scheme area, collected over several years by highly experienced local ornithologists, many with decades of expertise in the area's bird life. It would be expected, at the very least, that given EIA guidance<sup>3</sup> and to comply with the request from East Lothian Council's own Biodiversity officer that the EIA authors would have submitted a data request to the Local Bird Recorder of the Lothian Branch of the Scottish Ornithologists' Club (SOC) to obtain relevant bird records for the area impacted by the Scheme. This was not the case, and therefore the EIA ornithology baseline suffers by not having the detailed insights into species presence, abundance, distribution and behavioural patterns to adequately inform its assessment (including of cumulative impacts), mitigation design and proposals for enhancement. This is particularly the case for the assessments of impacts from the Scheme's construction compounds, the seawall improvement works, and the two sections of the Musselburgh Active Travel Network (ATN).

Moving on to obtaining desk study data from the British Trust for Ornithology (BTO), this key organisation administers a number of bird recording schemes, including the Wetland Bird Survey (WeBS), which cover this area. It is EIA good practice, as part of gathering desk study data for developments in coastal areas, to obtain and present WeBS results, alongside survey data. Bird surveys commissioned for EIAs are inevitably restricted to relatively short-term

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<sup>1</sup> See the Environmental Impact Assessment Handbook: Guidance for competent authorities, consultation bodies, and others involved in the Environmental Impact Assessment process in Scotland Version 5, April 2018. NatureScot and Historic Environment Scotland.

<sup>2</sup> E.g. Bryant, D. (1987) The Natural Environment of the Estuary and Firth of Forth. *Proceedings of the Royal Society of Edinburgh, Section B: Biological Sciences*, Volume 93, Issue 3-4, pp. 509 – 520 DOI: <https://doi.org/10.1017/S0269727000006916>

<sup>3</sup> For example, see C.6.3 and Box C. 6. Practice .1. in the reference cited in Footnote 1.

sample surveys, comprising snapshots of bird activity. The WeBS scheme and its predecessor have been running for decades and provide important long-term insights into species composition and abundance of waders and wildfowl of key sites, and long-term population trends. In particular, for large designated sites like the Firth of Forth SSSI/SPA/Ramsar, WeBS data are also essential to place local bird populations (i.e. the birds present in the Scheme area) in their wider Firth of Forth context, so that impacts from the Scheme, and cumulatively with other projects, can be adequately assessed. Whilst it is noted that in Section 7.3.3 of the EIA it states that the desk based assessment included data responses from organisations including the BTO, detailed WeBS data are not provided. The reference to WeBS data is limited to total species counts (in the EIA Section 7.5.6.1 'Desk-study and preliminary ecological appraisal'). This states:-

*'Data obtained during the desk-based assessment identified the potential presence of the following protected species within the study area:*

- *Wintering wetland birds: the BTO Wetland Bird Survey (WeBS) data for the five-year period from 2013/14 to 2017/18 identified a total of 70 species of wetland birds (which includes unidentified and hybrid species) within the Eastfield to Musselburgh WeBS sector. Of these 70 species, 55 were recorded in the winter months during this period. The five-year mean peak count of wetland birds within the Eastfield to Musselburgh WeBS sector is 4,878 individuals, with a five-year winter mean peak recorded as 5,259 individuals (see Appendix B7.4 for details):'*

Instead of these agglomerated count figures, the EIA Report should provide the species-specific WeBS data. Furthermore, and contrary to the Chapter's statement that details of WeBS data are provided in Appendix B7.4, there are no details provided on the WeBS data for the area in that Appendix. What is required for the EIA (and HRA) is a map of the WeBS count sector to compare with the survey areas used for the through the tide counts, and for the WeBS data to be tabulated by species, comparing abundance figures from the survey work. Neither are presented in the Biodiversity Chapter or any of the published EIA Report Appendices.

Lastly in relation to the WeBS data, the totals that are presented are out of date, being '*from 2013/14 to 2017/18*'. The desk study for the EIA should have obtained the most recent five-year dataset available, i.e. up to the 2022/2023 non-breeding season, to help inform the assessment.

The inclusion of detailed WeBS data is common practice in EIAs (and HRAs) for coastal developments, in particular where developments overlap or are in close proximity to internationally important sites designated for their bird interests. As already highlighted, without these details, it is not possible to contextualise or corroborate the survey data provided by the applicant. This and the wider omissions in desk study data need to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report.

#### Baseline Survey Accuracy

The bird survey data on which the Scheme's EIA Report depends appears to contain apparent anomalies, with some species noted that either have only very rarely ever been recorded locally and other species which may be mis-identified. The inclusion of these records undermines confidence in the reliability of bird (and other) survey work carried out for the EIA Report, and also in the rigour of the quality assurance processes that have been applied during the collection, processing and writing up of data used in the EIA Report. Specific examples include records of Stone-curlew, Water Pipit, Twite breeding, "flyover" Wood Warbler, Whimbrel in

November, a Kittiwake flying up the river Esk (Appendix 7.4). Based on over 60 years of data held by the SOC, these records require verification. The almost daily coverage by experienced birdwatchers over the survey period also points to other anomalies, such as occasions when a large count of Velvet Scoters is reported in the EIA Report at a time when only a Common Scoter flock was present. Such questions on the reliability of the survey data are critical, given the conservation importance of qualifying features of the Firth of Forth SSSI, SPAs and Ramsar sites and Outer Forth and St Andrews Bay Complex SPA in such close proximity (and in some areas, overlapping) with the Scheme. It also underscores the importance of consultation with bodies such as the SOC and BTO to ensure that pre-existing data for the Scheme area are obtained, adequately used to aid data validation and quality assurance, and properly integrated into baseline data.

One further concern over the baseline survey surveys is the validity of the ‘through the tide counts’ which coincided with the construction activity for the new lagoons between 2021 to June 2023. Given that the EIA Report acknowledges that construction traffic along the seawall will cause disturbance to birds (including qualifying features of the Firth of Forth SSSI, SPA and Ramsar site), evidently the results from these surveys were not representative whilst the lagoon construction was on-going. NatureScot guidance on bird surveys clearly highlights the principle that surveys should not take place where there is disturbance that may change the abundance, distribution or behaviour of birds within the survey area<sup>4</sup>. This precaution has not been followed therefore, and it further undermines the reliance that can be placed on a significant proportion of bird survey data used in the EIA Report.

It is understood however, that bird surveys are still being carried out, I therefore object until these un-impacted additional bird survey results are published as part of the submission of Further Environmental Information and HRA.

#### Failure to Identify and Assess Habitat Loss from the Scheme

The EIA Report attempts to identify and quantify the loss of habitats from the Scheme, to assess the significance of these losses, the mitigation that will be required and the resulting residual impacts and their significance.

However, it completely fails to identify the main habitat impact from the Scheme, namely the loss of shoreline and inter-tidal habitats over its 100-year operational life. These losses will occur as a direct result of the Scheme’s construction of hard defence structures along the coast where these are currently absent or limited, through what is known as ‘coastal squeeze’. This impact needs to be fully identified and assessed in the EIA Report, in particular the Scheme’s proposed hybrid wall structures at Work Sections 6 and 7 (impacting 325m and 290m of coastline respectively) and its concrete walls along Work Sections 8 and 9 (impacting 393m and 132m of coastline respectively) (see Table 4-2 ‘Summary of Scheme by work section’ in Section 4.4.1 Scheme Layout Overview, and Figures Appendix A41j to A41l in Appendix A of the EIA Report). The existence of this operational impact is not even mentioned in the EIA Report Biodiversity Chapter, let alone assessed, with only the most cursory mention given in 7.5.9.3 ‘General trends’. The EIA Report therefore does not meet its own commitment (in Section 3.6.2 ‘Future baseline’) to complete ‘*Where appropriate, an appraisal of the future baseline without*

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<sup>4</sup> Although relating to bird surveys for wind farms, the importance of avoiding construction disturbance that may affect survey results is made clear in Section 2.1.1 and Box 1 in NatureScot (2017) Recommended bird survey methods to inform impact assessment of onshore wind farms. March 2017, Version 2.

*the Scheme ... where feasible to allow for consideration of the operational impacts of the Scheme over its 100-year design-life'.*

This is of particular concern because these habitat losses will impact the qualifying features of the Firth of Forth SSSI, SPA or Ramsar Site (and the conservation objectives of the latter two designations).

The omission of this impact in the EIA Report must be rectified and the necessary modelling and full assessment of habitat loss from coastal squeeze be fully assessed and published as Further Environmental Information. The assessment of these habitat losses on the integrity of the Firth of Forth SPA and Ramsar Site must also be included in the HRA, to inform the compensation that will be required, if should a derogation case be accepted.

Given how important this impact is, it is also worth re-stating the Council's published Scheme objectives (EIA Report Chapter 4, Section 4.1 and Table B4 in Appendix B4) that include the following Environmental Objectives:-

- 1. That the Scheme will achieve as a minimum a neutral impact on the environment.*
- 2. To ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures.*
- 3. To ensure that the Scheme considers the impact of climate change and includes appropriate provisions to mitigate any impact.*
- 4. To ensure that the Scheme considers in full, and includes for any appropriate measures, to protect the Firth of Forth and its protected statuses.*

Clearly, these objectives cannot be achieved if the Scheme's impacts are not adequately identified, assessed, and mitigated and if mitigation or enhancement proposals (such as those in EIA Report Table 7.7) are not considered in terms of resilience to sea level rise and climate change.

In addition to failing to include operational habitat loss, the habitat loss figures that are currently included for construction and operational impacts lack clarity and consistency across the Biodiversity Chapter and Appendices. For example, the extent of temporary lost habitat given in Section 7.6.2.1.1 'Firth of Forth SPA and Ramsar' is given as 'approximately 2.14 ha' but the habitat breakdown figures only add up to 1.711 ha. Similarly in Section 7.6.3.1.1 'Firth of Forth SPA and Ramsar', the permanent loss of habitat from the Firth of Forth SPA and Ramsar is given as 4.3 ha, but again the figures for the habitats lost amount to just over 1.46 ha. This lack of clarity and inconsistencies in the EIA Report make it difficult for consultees to clearly understand the scale or location of the Scheme's habitat impacts. It is important that these losses are clarified, including in the HRA prior to its finalisation, and if necessary, through the submission of Further Environmental Information.

#### Failure to Appropriately Identify Plans and Projects to Consider for the Cumulative Impact Assessment

Section 7.3.9 'Cumulative effects' of the EIA Report identifies that *'A review of developments in the local area as listed on the East Lothian and Midlothian Council planning portals was conducted. The assessment focused on developments of any size within the working areas and those over 1 ha in size up to 5 km from the working areas in Musselburgh and the reservoirs. In*

*addition, Grangemouth Flood Protection Scheme (GFPS) was also considered as part of the assessment, as requested by NatureScot during consultation for GFPS’.*

The cumulative assessment needs to encompass developments that have significant potential to impact key ecological receptors. The potential for cumulative/in combination impacts is determined by impact pathways, not by arbitrary thresholds such as development size or distance from the Scheme (neither of which have any regulatory basis or reflect CIEEM guidance)<sup>5</sup>. Movement of birds around the Firth of Forth SPA/Ramsar site have been relatively well studied, and this information should be referred to in order to help determine potential impact pathways, and thereby the plans and projects that need to be taken account of in the cumulative/in combination assessment. It is important that this impact/pathway/receptor approach is adopted in the HRA’s ‘in combination’ assessment, if made available to consultees, otherwise through the submission of Further Environmental Information.

### Repeated Lack of Evidence to Substantiate the Findings of the Impact Assessment

In order to comply with EIA guidance, it is essential that the assessment of impacts is supported by appropriate evidence. However, the EIA Report consistently fails to provide evidence to back up the assessments made on construction and operational impacts of the Scheme on birds.

The rare instance when evidence and published peer reviewed information is referenced in support of the assessment of impacts is for kingfisher (see section 7.6.2.3.4). Kingfisher is only a species of regional importance, yet the EIA Report’s assessments of impacts on internationally or nationally important bird species are repeatedly made without any reference to peer reviewed or other evidence, or even to standard NatureScot guidance (for example, in relation to disturbance, Goodship and Furness 2022<sup>6</sup>). A typical example of unsupported assertions is in Section 7.6.3.1.1 ‘Firth of Forth SPA and Ramsar’, which states ‘The remaining area to be lost within the SPA is comprised of habitat rarely used by qualifying species and therefore is considered unlikely to provide functional habitat’. There are no data presented to back up this assessment, since the EIA and its Appendices omit the necessary detail on the distribution and abundance of individual species.

This is a clear omission and weakness in the EIA Report, is contrary to guidance and good practice, and reduces the reliance that can be placed on the assessment or effectiveness of mitigation proposed. It also falls short of the robustness and detail of EIAs for other developments in the area<sup>7</sup>. Furthermore, East Lothian Council, who commissioned the EIA, has an actual duty to protect and enhance biodiversity. This duty cannot be adequately discharged without detailed baseline EIA (and HRA) bird data from which impacts on birds or other wildlife can be assessed, mitigation designed, and residual impacts identified.

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<sup>5</sup> Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. September 2018 Version 1.2 - Updated April 2022

<sup>6</sup> Goodship, N.M. and Furness, R.W. (2022) Disturbance Distances Review: An updated literature review of disturbance distances of selected bird species. NatureScot Research Report 1283.

<sup>7</sup> See, for example, the inter-tidal and near-shore bird data presented in Appendix 6C: Intertidal and Near-shore Bird Surveys of the Inch Cape Onshore Transmission Works EIA report (ICOL, 2018b) at [OnShore-EIA-Appendix-6C-1of-2.pdf \(inchcapewind.com\)](#) and [OnShore-EIA-Appendix-6C-3of-4.pdf \(inchcapewind.com\)](#). Others include the EIAs for [SSE Seagreen 1A](#) and for the Cockenzie Combined Cycle Gas Turbine Power Station application.

It is also important to note that for the HRA the best available scientific evidence must be used, and the Council, given its Scheme objectives and biodiversity duties, must ensure that this is the case, being responsible for commissioning the EIA Report (and HRA).

### Repeated and Unsubstantiated Downplaying of Conservation Importance and Impacts in the Assessment

There are repeated instances in the EIA Report's Biodiversity Chapter where assessments of impacts on birds downplay (i) the value of their habitats - because it is stated they are already subject to disturbance, or (ii) the significance of disturbance to birds - because it is stated they will move elsewhere within the SPA, or (iii) impacts being insignificant - because the area of impact is small. These assertions are consistently unsubstantiated by evidence (as already highlighted above) and are a style of assessment more typical of commercial developers seeking to justify damaging protected sites. These assertions are inappropriate in those circumstances, but are totally inappropriate for Councils, given the legal and policy obligations they are under to protect and enhance biodiversity, notably the Nature Conservation (Scotland) Act 2004 and National Planning Framework 4 (NPF4). Furthermore, no reference is made to the fact that many wildfowl and wader populations in the Firth of Forth have already suffered long-term declines as a result of development impacts, disturbance and habitat loss<sup>8</sup>, and that approximately one third of the Firth of Forth SPA/Ramsar's qualifying species are in unfavourable conservation status (Protected Nature Sites ([sepa.org.uk](http://sepa.org.uk)), accessed 19.04.2024). The Councils around the Firth of Forth, together with the Scottish Government, NatureScot, businesses and local communities, need to be working together to ensure qualifying features of the SSSI, SPA and Ramsar site return to favourable conservation status.

Examples of the unsubstantiated downplaying of conservation importance of habitats or species, and of impacts are, for example, in Table 7-5 Summary of Baseline Conditions and Evaluation of Importance of Ecological Features, which includes the statement that 'The sand dunes within the study area are narrow and disturbed; therefore, it is considered they do not meet the SSSI designation criteria'. In Section 7.6.2.1.1 'Firth of Forth SPA and Ramsar', another unsubstantiated statement is made, 'The area temporarily lost during construction constitutes a narrow linear area adjacent to the coastline which experiences high levels of disturbance from public use. This area is not considered to be important habitat for qualifying interests of the Firth of Forth designated sites, in comparison to the large expanse of sand flats along the coastline and the lagoons at Levenhall Links'. There is, however, no evidence to back up these assertions, on factors such as prey availability, carrying capacity, exposure to disturbance, or any of the other influences that need to be considered in order to robustly assess these impacts. The same applies in the assessments made in Sections 7.6.3.1.1 Firth of Forth SPA and Ramsar, 7.6.3.1.2 Outer Firth of Forth and St Andrews Bay Complex SPA, and 7.6.3.1.3 Firth of Forth SSSI. These are sites of international and national importance for conservation, already under significant multiple pressures, and it is essential that assessments of impacts are evidence-based and robustly reasoned. This is not the case currently, and this must be rectified. It is therefore essential that the Council (or Scottish Ministers) exercise the right to request further evidence, through Further Environmental Information and in the finalised HRA, in accordance with EIA guidance (see for example, NatureScot and Historic Environment

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<sup>8</sup> e.g. McLusky, D., Bryant, D. and Elliott, M. (1992) The impact of land-claim on macrobenthos, fish and shorebirds on the Forth Estuary, eastern Scotland. *Aquatic Conservation: Marine and Freshwater Ecosystems* Volume 2, Issue 3, pp. 211-222, or Dwyer, R. (2010) Ecological and anthropogenic constraints on waterbirds of the Forth Estuary: population and behavioural responses to disturbance. *Environmental Science, Biology*.

Scotland (2018), referred to in Footnote 1, specifically Section D. 6), before confirming the Scheme.

#### Disturbance to Birds During the Scheme's Operational Phase

Related to the point of objection above on lack of evidence to support the assessments on international and national designations (in Sections 7.6.3.1.1, 7.6.3.1.2 and 7. 6.3.1.3), the EIA Report notes that:-

*'The improvements to the active traffic network (particularly along the seawall and at the proposed Goose Green Footbridge) may result in increased pedestrian and cyclist traffic, which may create increased operational disturbance to qualifying bird species'.*

Evidently the Council's EIA Report makes it clear that it is uncertain whether or not the ATN works will result in increased active travel, in which case how can the expenditure, additional risk of impacts on internationally and nationally important designated sites, and carbon footprint of constructing these two ATN elements of the Scheme be justified? Without strong independent evidence that there will be sufficient active travel benefits, these two elements need to be removed from the Scheme (not least as there are already footpaths and cycle paths along these sections of the Scheme coastline).

That objection aside, these EIA Report sections contain no evidence to support the assessments made operational disturbance, and as such they are unsupported conjecture. This needs to be rectified (including in the HRA), firstly by inclusion of clear evidence-based and quantified prediction of the level of increased activity as a result of the ATN path and Goose Green Foot Bridge construction, compared to present levels<sup>9</sup>, and secondly by ensuring the assessment of disturbance impacts on each qualifying species of the SPAs, Ramsar and SSSI are made on the basis of these predicted operational levels of activity, and supported by an appropriate level of detail and evidence.

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#### The Decision to Date by East Lothian Council Not To Publish the Draft HRA

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<sup>9</sup> Presumably these estimates are available from the business case for use of public money on the Musselburgh Active Travel Network.

data, so both sets of information can be included in the HRA and used as evidence to contribute to a robust assessment of effects from the Scheme alone and in combination with other plans and projects.

Please acknowledge receipt of my letter of objection, in writing. Please also advise me of next steps, and timescales. Thank you very much.

Yours Faithfully,

A solid black rectangular box used to redact the signature of the sender.



**Subject:** (0452) Objection to Musselburgh Flood Protection Scheme

**Sent:** 23/04/2024, 22:49:41

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
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To: Service Manager-Governance,  
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John Muir House,  
Haddington,  
EH41 3HA

Dear Sir/Madam,

I am writing to you to formally object to the recently published Musselburgh Flood Protection Scheme. I urge you to consider all of the objections we are raising in regards to the scheme.

To many residents of Musselburgh and far beyond, the Flood Protection Scheme does not go in favour of anything that is being proposed and is to the detriment of our attractive, valued town and the environment & wildlife in and surrounding Musselburgh.

A list of my main objections are as follows:

1) Environmental impact.

The construction of the defences will cause an endless and irreparable amount of environmental damage and upheaval - not only affecting the health and wellbeing of the residents of Musselburgh but also (and more so) the wildlife and herbaceous layer for the whole area in which the scheme is planned to cover.

As a person who works with the environment and outdoor education, I cannot stress enough the impact that this will have. The impact will be no less than devastating for our planet and life.

As you will know, Musselburgh, The River Esk and The Firth of Forth is a place of rare and vibrant migrating birds, sea life, protected river fish and the most incredible and rare medicinal plant life as well as ancient protected trees, with Levenhall Links even being a place of Special Scientific Interest.

The impact of the scheme will drive ALL of the above away, wiping out millions of animals and plants including the ancient trees. The habitat destruction will be utterly devastating.

These animals, plants and trees all contribute to the planet's ecosystem. We MUST respect and protect that. We are trying to look after climate control and this is going against anything in support of climate control.

I cannot say enough about this matter. It is of my utmost concern.

Should the scheme be approved, there will undeniably be a horrendous amount of damage to all species in the river at risk. The noise from digging & pile driving the foundations will be damaging to so much. The spillage of harmful materials into the water of the River Esk and Firth of Forth for an unknown amount of time will poison all river life, sea life and human life. This is both appalling and terrifying. The inconsideration for this is mind boggling and majorly concerning.

Removal of trees/shrubs and replacing with concrete will raise the water temperature and alter the habitat detrimentally. Again, this brings in the concern surrounding climate control.

Migratory Salmon & sea trout have been given no consideration and their spawning grounds will be ruined. Salmon is a protected species declining in numbers. Why has this not been considered? Destroying the habitat for an unspecified amount of time is nonsensical for a scheme which by its own admission may cause more surface water issues as the concrete blocks natural drainage into the river. Water will have nowhere to go. Leaving more of a risk than that which lies with us right now.

2) There being no sufficient evidence And incorrect data surrounding the flood risks of Musselburgh.

This is a huge factor for many of our objections. The data we have been shown surrounding the decision to plan a flood prevention scheme is incorrect and insufficient. After questioning this, we have yet to be shown any correct information and answers or even considered in our concerns. This to so many of us is raises huge alarm bells. WE NEED ANSWERS.

3) Very basic and fundamental failures in the Flood Protection Schemes in Brechin and near Manchester.

Flood protection schemes were completed and both areas have encountered the WORST flooding ever experienced proving the schemes methodology isn't correct.

This seems utterly unacceptable and a danger to us all whilst be are being told otherwise. Recognition needs to be taken surrounding these concerns. Why would things be any different in Musselburgh?

4) Musselburgh residents livelihoods being affected negatively.

I am a [REDACTED] I [REDACTED] as Levenhall Links and the whole length of the River Esk. This is going to mean I lose my job and have no livelihood to look after my family alongside many others who rely on this area for their work and wellbeing.

I also want to engage with the fact that many, many businesses will likely need to close with the affects of the scheme - through noise, road disruptions and with public avoidance due to the many visitors to Musselburgh simply not visiting as it'll be such a building site and so unappealing. This is not at all acceptable, especially with the failing economy we are under right now. People will lose homes, family spaces, work spaces and much, much, much more.

5) The unannounced (and seemingly secretive) plans to remove ancient and protected trees from the Inveresk Estate.

The unannounced plans to remove ancient and protected trees from this area should not go ahead. These trees are not only hundreds of years old, PROTECTED but are also essential for climate control. The fact that the residents here have been offered a monetary amount in order to allow this to happen is both illegal and very wrong. The roots of these trees will be so deep into the earth below that the amount of drilling and depth of drilling will be catastrophic. I cannot stress the word 'catastrophic' enough.

6) Severe lack of public involvement.

The severe lack of public involvement in the planning of this scheme is appalling. We have NOT been given a voice. We have NOT been seen.

We are the ones who should be given choices set around the potential risks. At the moment we have been silenced, ignored and are deemed unimportant. PLEASE HEAR OUR CONCERNS.

7) The impact on property value.

The impact on property value all over Musselburgh and the surrounds will be hugely negatively impacted. The work will literally tear apart a whole town. A place that is currently up and coming with many people excitedly moving to Musselburgh because of its appeal. This appeal will no longer exist. People will avoid Musselburgh completely and property values will drop.

This will affect the lives and futures is so many of us.

The talk of the scheme bringing 'active travel through Musselburgh'

8) Pollution effects.

The pollution thrown out by building a concrete wall will be unacceptable in this day and age where we're trying to bring down CO2 emissions. This will affect everybody's health, particularly those with breathing difficulties. It will go on for too long than is acceptable.

9) Cost.

The huge amount of money could be used for investment elsewhere. We are in a sad state of affairs where many residents (including myself) are unable to get a Doctors appointment at Riverside. This money could and should be used for more important things such as helping an ailing NHS, crumbling schools, community centres being closed down due to lack of funding and pitiful high streets, the list is endless.

10) Lack of exploration into alternative nature based solutions.

There has not been any consideration or exploration into defences which will work WITH the environment rather than against it. Cutting down trees can have a devastating effect on our ecosystem, raising temperatures by several degrees and thus exacerbating global warming. Trees are the lungs of the earth and need preserved rather than knocked down to make way for a wall. The devastations to wildlife and plant life that I mentioned in my previous points need no more mention. There ARE other ways.

These are my main objections but there are MANY more I could list such as graffiti on the wall, how engineering works will affect properties, the proposed new bridge at Goose Green which there is absolutely no need for, and my concerns surrounding active travel paths – in which we already have - our cycle paths are among the best in the country and they are well used.

MY FINAL PLEA IS THIS: I urge you to consider the detriment we are faced with and the planetary damage. I urge you listen to and take heed of the views of the residents of Musselburgh. This is our beloved home.

I would be grateful for acknowledgement of receipt of this email.

Yours Sincerely,

A large black rectangular redaction box covering the signature area.

Sent from [Outlook](#)

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

22/04/2024

Service Manager  
Governance, Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HE

Dear Sir

**OBJECTION LETTER to the proposed Musselburgh Flood Protection Scheme**

I am writing to set out my objections to the proposed flood protection scheme as formally notified by letter, to my household, dated 15 March 2024.

I am a resident of Musselburgh; I have lived in Musselburgh for most of my life and at this address for [REDACTED]. In addition to being a local resident, I also shop locally, use local cafes, restaurants, and local transport, and regularly walk within the area of Musselburgh.

As a resident I value the open outlook that provides a positive experience for those who live and those who visit Musselburgh. I object that what is proposed will destroy the amenity that the town offers. I also object that hard engineering solutions are being prioritised over other methods of addressing the risk of flooding.

All the indications are that the use of Natural Flood Management (NFM), nature-based solutions and a flood resilience approach are preferred over building flood walls. Even in massive river catchments like the Severn, these approaches are being discussed and trialled. Man-made interventions cannot prevent flooding downstream – we need to do more upstream to slow/store the water so it doesn't rush down through the town. The proposed scheme shows no evidence of working with nature to find solutions.

The Scottish Government is heading towards NFM. On 23 December 2023, the Minister stated <https://www.parliament.scot/chamber-and-committees/questions-and-answers/question?ref=S6W-23835> "The Scottish Government recognizes the importance of natural flood management (NFM) measures in reducing, slowing or otherwise managing flood waters across catchments and along the coast while also delivering multiple environmental benefits."

Why is ELC not in step with the Scottish Government policy development? Why must Musselburgh be tied into old fashioned methods of flood defence that are not evidenced to meet the challenges ahead e.g. climate change.

I object that what is proposed will affect the value of my property. I have lived at this address for [REDACTED] and sometime in the next 4 years, I am planning to move. What is planned will cause huge disruption within the town and for many years, with lots of construction work etc. My fear is that you are putting my plans at risk, as how will I attract people to buy my property when it is surrounded by construction and wall building. Will the Council be compensating me and others who are similarly affected for any loss of property value.

I object that the planned structural work could put the safety and structure of my home at risk. My property is not far from the river, will the Council pay for an independent structural survey of the building where my flat is located both before and after the planned works to offer reassurance to myself and any future buyer?

These are my main objections to the proposed scheme, please only communicate with me by email.



I object to the MFPS Scheme 2024 as published and advertised.

Please acknowledge receipt of this letter of objection.

Yours Sincerely

[REDACTED]

[REDACTED]


  


23rd April 2024

Carlo Grilli  
Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

Dear Sir

I am writing to object to the recently published Musselburgh Flood Protection Scheme (MFPS). I am a resident living in Musselburgh who regularly uses the river, seashore and lagoons all of which are subject to these proposals. in the vicinity of the proposed works to the river and the seashore. These spaces are all valuable to me as a resident for my physical and mental wellbeing. I am primary carer for my sister and mother who both live in  and will be adversely affected by these proposals not just from a loss of amenity but suffering from increased traffic, increased disturbance. This scheme I believe will have an impact on my ability to support them with the increased traffic in Musselburgh making it harder to get to them quickly in an emergency or take them for key medical appointments and essential shopping.

I object to the published scheme because:

**Cost**

The scheme is currently costed at £132m in total, including £53m for the flood protection element of this. I can find no details which indicate that these costs are final, or that the chosen contractor has agreed contractual terms which prevent costs rising or has penalties in the event of any breach of contract by them for any element whether it be financial, construction or health and safety as examples. This is a concern at a

time when council services are being cut and in effect from the information available to me the final council costs are unquantified.

My own personal experience shows how badly wrong things can go when a council run scheme is not properly monitored and the council fail to take proper steps to deal with a situation even when given clear advice from their managing agent. It is incumbent on East Lothian Council in its entirety to ensure any contractual terms protect the interests of its constituents whether it be financial or otherwise and I have unfortunately failed to find any evidence that East Lothian Council have fulfilled this obligation.

I understand that £4m, from the information available to me, had been spent by December 2023 on design and consultations. This is a particular concern when we are consistently seeing a decreasing budget available for core Council services such as social care for the vulnerable and elderly within our community (which would directly impact my mother and ultimately my family if she is not properly cared for due to budget cuts), essential community health and wellbeing amenities: libraries, leisure, and culture. Within Musselburgh we have already seen a significant impact and I would highlight as an example, the closure of the Brunton Hall Theatre and the loss of the café within this building which was used by many including myself due to its proximity to public transport and disabled parking.

I believe that the scheme in its current form highlights that the budget and spending priorities for East Lothian Council do not match the needs of East Lothian Residents and with the current uncapped costs places an unnecessary financial burden on myself and my fellow residents within East Lothian. It is incumbent on East Lothian Council to demonstrate that within this scheme they have met this obligation.

Having researched further and from council meetings online it appears that East Lothian Councillors have voted for the scheme to progress on a false premise that if funding is not secured in Cycle 1 then the opportunity will be lost, however, from the information available to me it would appear that funding will be available in Cycle 2 which Musselburgh will qualify for.

The Scottish Government & COSLA working group on flooding has recognised the model of uncapped funding (known as Cycle 1) allows project consultants/developers to expand flood schemes into much larger, and more costly, projects. The escalating costs of this project should be scrutinised and capped to prevent further inflation of project and costs.

Musselburgh has been highlighted as the priority; however, recent reports suggest that the shore at Prestonpans to Port Seton is at greater risk and it is well documented that Haddington has a significant flood risk. I believe that East Lothian Councillors have made costs decisions based on, at best, incomplete information which does not make the best use of financial resources within East Lothian to protect the homes and businesses of areas which are from the information available to me considered more vulnerable than Musselburgh at this time.

One question which remains unanswered, and I cannot find any details for is the ongoing maintenance costs of this scheme which are significant I can only presume, without proof to the contrary, these will be significant, however, there appears to be no future planning for this and as noted earlier core council services are being reduced and East Lothian Residents should not suffer further for a scheme with no clear sight of data on additional costs. There are many examples, in my view, of the failure of East Lothian Council to carry out routine maintenance in the county under their current financial position and the burden the scheme in its current form will bring is unprecedented with no clear plan of what this will involve from the questions I have asked or the evidence I have seen.

The loss of use of the Riverside, Seashore, Fisherow Links and the lagoons which has a direct impact for myself I believe will require compensation to be paid to myself and many others. In addition, I believe the works will have a significant impact on the value of my home which I would fully expect to be compensated for under the Flood Risk Management (Scotland) Act 2009. The scale of the works will severely impact my enjoyment of my home due to the noise, dirt and pollution due to the construction in Musselburgh most specifically at Pinkie School and the Lagoons. I will also lose the use of the river, seashore and Fisherow links during the construction phase all of which are important in my role as a carer as these are enjoyed by my sister and mother as they are within easy reach of their homes as both have mobility issues.

The additional burden this will place on me is also immeasurable as the stress of all aspects of the work on both will require me to provide more support to help them cope with this. No consideration appears to have been given to the impact on the more vulnerable members of our communities for whom this will great a great deal of stress and anxiety and those who care for them. I am sure I am not the only carer impacted in this way.

New Street is already heavily congested and well used by motorists, cyclists, and walkers and at times it is difficult for cars to travel along this street. The addition of construction traffic including large lorries, will bring a huge amount of congestion to New Street, Eskside, Mall Avenue as examples with many more routes impacted. I fear as stated elsewhere in this letter this will cause difficulties and impact my ability to support them on a day to day basis or reach them in an emergency. An example is my mother has a community alarm, however, if anything happens I am called by the community alarm team. If I cannot reach my mother quickly I dread to think what the consequences would be. For medical appointments I will now potentially have to take additional time off work, not all of which will necessarily be paid, to ensure I can reach my family members by car and take them to their appointments on time. I cannot stress strongly enough the wider impact this will have in our community if people cannot travel with minimum disruption due to the proposed flood scheme and associated works..

I have mentioned my concern about council budgets being under pressure for essential care. My mother relies heavily on her carers to allow her to live at home as independently as possible. It is extremely worrying to me that she and many others in



her position could be made to suffer if provision is reduced due to pressure on budgets while money is spent without due diligence, or a true understanding of the cost being committed to. East Lothian have a duty of care to all vulnerable groups which includes children and adults to ensure the funds available to them are spent in the best interests of East Lothian and I strongly believe that this is not the case with the current proposals and as stated above it is incumbent on the local authority to demonstrate good stewardship and governance of public money for the benefit of the communities they serve.

### **Science/data**

The MFPS does not offer alternative scenarios. It is tied to a 1:200-year climate change event. Scottish Government guidance says that a range of scenarios should be included. I do not believe that East Lothian Council have been given a range of options to judge what is necessary protection leading to potentially incorrect judgements being made by paid and elected officials. The figures provided by SEPA are predictions but by no means a certainty, yet the current proposals appear to take the view that these figures are a certainty.

East Lothian Council has commissioned a report on the coast from Dynamic Coast, which has been reported on in the press ([Beach in East Lothian suffered five years of damage in two days during storm - Edinburgh Live](#)). This report highlights that the planned defences will not work as they are not designed to deal with coastal erosion. It is inconceivable that a decision was made in January without this report being available particularly as it highlights the shortcomings of the current proposals in particular regard to the seashore. There are several highly publicised nature-based solutions already in place within the Forth estuary yet none of these, to the best of my knowledge, seem to have been considered or included in the consultations prior to the current scheme being developed which I believe is a major failing of East Lothian Council in its entirety and falls far short of the governance and diligence we are entitled to expect from appointed staff and elected officials.

I am aware that many residents have asked to see the data underpinning the scientific calculations of the project team, but these requests have been ignored. This concerns me greatly and I would like to be made aware of the reason for this as it does not seem unreasonable for residents to have access to this key information to allow them to assess if they feel the scheme meets the needs of their hometown.

The project team say they have adjusted flood defence heights in response to local feedback. From my own observations this amounts to fitting the science around the preferred outcome, rather than science/data leading to a properly calculated outcome. This makes no sense. I have spent considerable time reviewing the plans on the website with my family and I remain unable to identify the height of the walls proposed, however, from discussions I am aware of it will be hard for someone like my mother who uses a wheelchair or wheeled walker when outside her home to see anything other than the wall along the river. I would also point out that the ramps proposed will be extremely difficult for my mother to use with her walker or for myself or any other family

member to push her up in her wheelchair. Our local river is an important amenity for many and being deprived of the opportunity to enjoy this will have an impact on the physical and mental wellbeing of many of my neighbours and fellow residents who enjoy spending time here year-round.

I have lived in Musselburgh for all my life and the last major flood I have heard spoken about in Musselburgh was in 1948, I remember the discussions for many years afterwards between my grandparents, family and friends. Climate change may mean there is increased risk of flooding in future, but there are communities at much greater and more immediate risk. As I mentioned above Prestonpans, Cockenzie, Port Seton more locally and within Scotland Dumfries, Perthshire etc all seem to be at a greater risk. The damage suffered in North Berwick to the harbour more recently springs to mind as another example of why priorities should be reevaluated by East Lothian Council and the Scottish Government to ensure public funds are spent where the need is greatest, and a plan should be in place for our county.

I understand that East Lothian Council were informed that Natural Flood Management (NFM) should be restricted to three interventions (use of 2 small reservoirs in the Pentlands, and a tree-catcher in Dalkeith Country Park). NFM could include an entire range of techniques to slow the flow of the river throughout the catchments, and to encourage the natural dune system along the coast. I believe it is a huge misjudgement that these were discounted at the start is wrong and the situation is made worse by the exclusion of NFM decided upon in October on the recommendation of Jacobs and backed by the elected councillors.

From my research I am concerned that the evidence presented to our elected officials in October was incorrect and the decision was also influenced by the way this information was presented. NFM, I believe offer longer term benefits to our local environment, those further upstream and offer a more sustainable way to address the flooding risk within Musselburgh especially in view of the climate emergency spoken about by East Lothian Council. I passionately believe that NFM solutions should be central to any scheme taken forward by East Lothian Council.

An example is native oysters (*Ostrea edulis*) which are native to the Firth of Forth and Scotland as a whole and are known for their ability to filter water and store carbon helping reduce carbon emissions by filtering 50 gallons of water a day. They also create a habitat by fusing together to form a reef which in turn increases the areas biodiversity as well as helping to reduce coastal erosion which as seen recently will have a greater impact in the future. [How oysters help fight climate change \(worldwildlife.org\)](https://www.worldwildlife.org/stories/how-oysters-help-fight-climate-change) gives a great amount of detail about the benefits to our climate, yet, I have found no details about these sorts of solutions in any of the project information. [Restoration Forth](#) is actively working to restore the oyster beds and seagrass meadows to deliver Marine restoration in the Firth of Forth and across Scotland. Greater consideration needs to be given to these projects which work with nature to restore our environments rather than creating man made solutions which will cause greater harm to our environment.

There are several examples where man-made flood schemes have failed, two of which were here in Scotland. The impact in Brechin of the flood walls failing was highly publicised as was the failing of floodgates in Perth. These evidence that man-made solutions do not prevent downstream flooding. Action is required upstream to ensure the flow of water is slowed or indeed excess water stored so it does not rush downstream causing flooding.

More recently we have seen evidence that the Scottish Government is heading towards NFM with [the Minister stating](#) “The Scottish Government recognizes the importance of natural flood management (NFM) measures in reducing, slowing or otherwise managing flood waters across catchments and along the coast while also delivering multiple environmental benefits.” East Lothian Council have failed to give any sincere consideration to NFM to the detriment in my view of biodiversity within the River Esk and the shoreline at the Forth Estuary. This is a travesty for future generations who will face a bigger battle with climate change without the help of our established trees and wildlife to maintain our environment.

My last point is around the use of concrete to build flood defence. The level of emissions produced in the manufacture of concrete are well documented and, in a report, released by Princeton University in 2020 stated that the manufacture of concrete creates four billion tonnes of carbon dioxide worldwide each year. The level of concrete shown in the outline plans is staggering, together with the impact of the construction itself, additional traffic in Musselburgh and surrounding areas and the loss of trees and other biodiversity within the area it could be argued that the proposed flood defences will do more to add to the climate emergency increasing the risk of flooding whereas with NFM there is an opportunity to reduce the risk of rare flood events in Musselburgh while working with rather than against nature as has been shown to work in many other countries recently.

As a regular user of the Lagoons it is easy to see that concrete has a limited life, and while I am aware of the inclusion of the repair of these walls in the scheme I also object to what is proposed. This is an area rich in biodiversity and only now recovering from the year long works to the last two lagoons. I have lived this area all my life and can remember how these looked when they were ash lagoons where we as children played. I have watched as nature itself took on a large role in restoring balance to this area, and while not fully supportive of the recent works I am happy to acknowledge the care taken with this and look forward over the coming years to see the wildlife and biodiversity recover and evolve. The proposal as they stand will have a huge impact on the efforts already made by our local Ranger service and Scottish Power in paying for these works as part of their contract and in my view further adding to the climate emergency we are facing.

### **Transparency and process**

My first concern around the lack of transparency is the lack of engagement from our elected representatives to understand the breadth of feeling among residents. There are several documented examples of constituents trying to interact with their elected

representatives only to find that the project team were responding to them. This is unacceptable and I believe shows the lack of independence of East Lothian Council and the project team. It is entirely reasonable to expect that elected representatives are speaking for their constituents and respond in a timely and professional manner.

The documents have in the main been published online making it difficult to view the latest plans in their entirety. Many family members have struggled with this format and with help from myself and other would have found it hard to understand what was proposed. I believe that this lack of transparency and availability of key information to all members of our community is another element of a flawed process which is designed to disenfranchise many sectors of the Musselburgh community. I would also highlight the lack of transparency to East Lothian residents who will be, by default, funding any potential scheme and its ongoing maintenance yet have been, to the best of my knowledge provided with minimal information.

It is disappointing that we as lay people are left spending several hours trying to view and understand the latest plans. This lack of transparency was also evident on 23<sup>rd</sup> January 2024 when agreement to the scheme progressing was given despite councillors having insufficient information an example being the Environmental Impact Assessment (EIA) which they did not have full sight of but voted through on the strength of only a non-technical summary. This is unacceptable and throws doubt, in my view, that the councillors' vote should stand as they voted without all the relevant information being available including the full financial implications with the officer present being unable to give sufficient information regarding the council's ability to meet their future liability for this scheme or where any required funds will be provided from within the budget.

I would also highlight that a vote was taken in January 2020 by East Lothian Council Cabinet, however, this was out with their terms of reference, and therefore they did not have the power to do so, as a scheme of this value should have been given the approval of the full council.

A further objection is the engineers who have been appointed to design the project were the authors of the Environmental Impact Assessment, I am not sure where else this would be allowed to happen in the private or public sector. The engineers ruled out all alternatives to the current scheme during the options appraisal. This in effect meant that no public scrutiny or debate took place as none of the alternatives were made available to the community. I would also state that I do not believe that there has been sufficient challenge or scrutiny of the consultants and engineer as when I asked the question about who was qualified within the council to oversee this project at the open days in June not one person could give me a response other than the Designer and Consultants would be advising the council. This demonstrates the complete lack of independence throughout this process and further concern about the openness and transparency at all levels of this proposed scheme.

The plans as submitted are not clear on the fate of the trees affected by the scheme. The benefit of trees to our environment are well documented. It is unacceptable that so

many mature trees will be lost with the resultant impact and as noted above adding to the climate emergency we are experiencing.

I have only latterly become aware of this proposed scheme through community activism rather than the efforts of East Lothian Council, my elected representatives of the engineers and consultants. The public consultation last year was not open for sufficient time to let all those with a legitimate interest view the plans. The exhibition itself showed drawings which were not to scale, bridges as they would look during a 1:200 year flood and not an everyday view. The drawings are also misleading in terms of height. I would also point out that the exhibition was not disability friendly as my mother was unable to view the boards from her wheelchair limiting her ability to participate in the consultation. I believe it is incumbent on East Lothian Council, the consultants and engineers to ensure that the whole community can access the information. My objection is that I do not believe in this process this has happened with those who are not computer literate or who suffer a physical or mental impairment potentially excluded from participating in this matter.

### **Multiple benefits and active travel**

My first objection to the proposals is the ramps used to provide access to the bridges. I have limited mobility and to access these bridges would rely on someone else to be pushing me in a wheelchair. The extra effort this will involve will prohibit people like myself from using these bridges as I could not ask someone to do all the extra walking not to mention the physical exertion it would require. The height of the bridges is excessive, and the images provided at the June consultation only showed a view where there had been a significant flooding event which was not accurate and did not allow the public to question the consultants.

The new bridge at Goose Green does not add anything to the flood protection scheme and I, from my own conversations family and friends, can see no local demand for this additional bridge and believe it takes away from the natural beauty of the area as it is, although the current proposed scheme will by default destroy the beauty of our river, destroy wildlife habitats and the biodiversity of this area.

The inclusion of the Musselburgh Active Toun (MAT) proposals does not contribute to flood prevention, and I would argue that the excessive width of the paths will create the need to narrow the river which commonsense would show means any flood water has less space and could actually increase the risk of flooding in the area. Based on my understanding of planning regulations these should be subject to planning permission, however, the flood scheme seems to have conferred permission. I do not believe that the information published clearly shows which parts of the MAT will require planning and which will bypass this as included in the flood scheme. Indeed there seems to be an awful lot of confusion about what is actually currently included in this current phase of the project making it harder for residents to understand the scheme.

The inclusion of MAT ignores the views of many who do not support the extensive paths proposed. As a lifelong resident I am familiar with Musselburgh Lagoons, Goose Green, Eskside and the sea front and believe the existing paths are sufficient for the current level of travel by walkers and cyclists. The unprecedented level of new housing in the area has not seen a significant increase in foot or cycle travel, the same cannot be said of the road network which is under significant pressure which will only be added to by the proposed scheme. I would also highlight that these plans have been extended and developed beyond the scope of the original consultation and discussions.

My daughter has been studying Marine and Coastal Tourism (BA) Hons at the University of Highlands and Islands (North, West and Hebrides). A large part of this course is considering sustainable tourism to allow visitors to enjoy the natural heritage and environment with minimal impact. Having had the opportunity to read her assignments I am struck at how out of step this proposed flood prevention scheme is with so many other public bodies and international organisations who are all working to preserve our environment and climates by working with nature, learning the lessons of the past through archaeology and history and moving away from purely man made solutions. It is disappointing that the consultants appointed and East Lothian Council are so disconnected with the movement to engage with and respect nature when designing this proposed scheme.

The final element is the cost of the MAT with no figures have been published to show the cost of the scheme. The cost to East Lothian Council and therefore all residents of East Lothian have never been openly discussed to allow open and informed debate by residents.

### **General amenity, health, and well-being**

I have outlined my concerns above regarding the loss of local amenities many of which are Musselburgh Common Good Land. The proposal shows the extent of the loss of these to the community and the loss of these should be compensated as stated above. I am not alone in enjoying these with innumerable residents and visitors visiting each day. The proposed works mean that there will be no alternative for people to enjoy the outdoors and the river with the inevitable impact on their physical and mental wellbeing.

I would also object on the grounds that the River Esk is a site of significant historical significance. [The Battle of Pinkie Cleugh](#) was fought on the River Esk on the 10<sup>th</sup> of September 1547 during the war of rough wooing and was the last pitched battle in Scottish history. The battle ended in defeat for the Scots with around 6,000 being killed. This creates an element of history and the roman bridge which as the name suggests has had a bridge of some form there since the roman era when there was a roman fort an Inveresk and is still important in the yearly festival where the horses cross the river.

It is estimated that the project construction will take a minimum of five years causing major disruption. As primary carer for my mother and sister I am extremely concerned at the increased time it could take me to travel to them in an emergency, but, as

mentioned above when I am taking them to medical appointments or for essential shopping. The increase in traffic within Musselburgh should not be underestimated causing danger to life if emergency services are unable to get through traffic on an already congested High Street which also has many more restrictions due to the change to bus stops and cycle lanes.

My mother is reliant on social care workers many of whom rely on cars to travel to clients from their own homes or as part of their daily schedule. The increase in traffic and disruption to movement in Musselburgh is likely to have a significant impact on this sector and it is vulnerable people who could be left without the service they are entitled to expect as part of their care package. I am also extremely concerned about the additional stress and worry this will cause to social care workers and other essential workers if they are unable to travel safely and easily to where they are needed.

The recent pile works at Mall Avenue were extremely disruptive and I am concerned about the impact this work will have on surrounding properties in all the affected areas including those of my family and the damage this could cause due to the level of vibrations during the construction phase which are considerable. The project will take at least 5 years to build. It will be a major cause of disruption.

The figures quoted regarding the number of properties which will be protected by the scheme vary greatly. This information should be clear and transparent and clearly evidenced. I have not seen any evidence of the impact of this scheme on those at risk of flooding in a 1 in 200-year event and the proposals seem excessive. It is also widely acknowledged that there has been no flooding on the beach or Fisherow Links in living memory or historically.

Knowledge and methods are continually evolving, the project team themselves seem to be stating that there is no high degree of danger in the next 50 years from the information gleaned from the open days at Eskmills. It would seem prudent to desist from spending exorbitant sums of money now without understanding and exploring sustainable alternatives which will protect our community, our wildlife, habitats and our river and seashore together with our local e for future generation rather than crumbling concrete which is not maintained and would become a danger.

Recent flooding in Musselburgh appears to be connected to inadequate drains and sewers. Many of the issues with flooding have arisen since the building of new homes in Musselburgh, Wallyford and Whitecraig has grown exponentially. The building of the current proposed scheme will prevent water escaping to the river and there does not appear to be adequate provision for future maintenance of any measures proposed. My daughter asked this question at the open days in June 2023 and was advised that it was a matter for East Lothian Council who would be responsible for all maintenance costs on completion of the project. No figures have ever been produced for this.

Please acknowledge receipt of my letter of objection, in writing. Please advise me of next steps, and timescales.

Yours Faithfully,

A solid black rectangular redaction box covering the signature area.



**Subject:** (0455) Musselburgh Flood Prevention Scheme Objection

**Sent:** 23/04/2024, 22:55:44

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Importance:** High

**Follow Up Flag:** Follow up

**Flag Status:** Completed

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23rd April 2024

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

Dear Legal Services

I am writing to object to the recently published Musselburgh Flood Protection Scheme for the following reasons.

1. Bias - consultants have marked their own homework. Considering the absence of peer review of the Scheme, and further considering that the council have opted, erroneously in my view, not to install an independent assessing team within the planning department, it stands to reason that the consultants marking their own work raises many objectionable questions that have not been answered and must be answered.
2. Escalating costs at a time when council have declared a financial crisis will put pressure on other services due to their 20% liability of all costs.
3. Loss of trees. The consultants are an experienced firm of engineers with knowledge and access to information. ELC likewise have the means to consult experts and arborist experts. To that end, an examination of the presentation information points to conditions that would almost certainly lead to the death of trees, such as those very close proximity of heavy plant adjacent or over the roots of tree, and formation of swales at/under the roots of tree at Eskside East for example. Therefore both the consultants and the council know with undoubted certainty which trees are very likely to perish during the formation of the flood scheme. To not demonstrate that clearly to the public is both a denial of information and manipulation of the townsfolk's empathy for trees, giving the impression that many trees may be saved, where the opposite is true.
4. No biodiversity net gain has been evidenced.
5. Removal of natural flood management before council vote on scheme in January 2024, and before petition was heard, not only was undemocratic but more importantly in breach of the 2009 Act's requirements.
6. Measures to avoid, control, manage and mitigate flood risk should also not increase flood risk elsewhere. There has been no assessment of the impact or risk of MFPS on other coastal area e.g. Portobello, Levenhall etc.
7. Our councillors' unanimous exclusion of Natural Flood Management, highlights a lack of willingness to deploy nature based solutions that go in the face of Dynamic Coasts advice. It must be noted that our councillors cast their votes before having sight of Dynamic Coasts full assessment. They must now review this information and represent the motion for a second round of votes. Nature based solutions at coast should not be ruled out (as per Dynamic Coast report).
8. Prematurity of wall along the coast due to lack of Coastal Change Adaptation Plan.
9. Dynamic Coast report states beach could be lost due to seawall structure - actions to manage flood risk should not contribute to increased coastal erosion.
10. There is no beach nourishment plan nor budget for this.
11. All data, flood modelling and designs presented to the public are based on the assumption of a sea level rise of 86 cm, advised to SEPA by Jacobs, and subsequently written into SEPA's requirements, which an overwhelming number of other studies do not support.
12. The modelling data has never been released despite repeated requests by members of the community with the necessary expertise to offer a peer review assessment.

13. Choice of year 2100 should be amended as we cannot accurately predict sea level rise that far. It could be less, or more.
14. Nature Scot (government experts) said we don't need "solutions today for the next 1m of sea level rise" (Nature Scot, Coastal Change Adaptation Guidance, Group Discussion on Climate Change Teams meeting on 31st Oct 2022)
15. Comparing Sustrans objectives and standards, and Active Travel Paths' in general, there can be no doubt that much of the Flood Protection Scheme pays heed and is informed by MAT. The consultants, the council's legal services' and infrastructure departments denials of this intrinsic relationship between MAT and the Scheme is flawed and has no basis, as the presentation put before the town manifest to the link. This is clearly demonstrated in the Design Statement published by the Consultants. MAT has heavily influenced design of flood scheme negatively.
16. All MAT proposals are deemed to be 'Developments' as defined by the Town and Country Planning (Scotland) Act 1997. This is undeniable, and failure to obtain planning permission for all MAT related elements would be tantamount to subverting the 1997 Act. ALL structures and routes of MAT should go via normal planning regulations.
17. Narrowing of river increases flood risk.
18. A new Goosegreen Bridge offers no flood reduction benefit. Furthermore, under the above noted definition under the 1997 Act, this bridge is without any doubt considered to be a 'Development' and not a replacement, and requires planning permission.
19. I acknowledge that surface water drainage is a shared issue between the flood protection scheme and Scottish Water. Nonetheless these outstanding surface water issues have not been addressed. These are likely to exacerbate existing flooding risk.
20. Introduction of mechanical and electrical equipment to deal with potential flood risks on the dry side of the defences, as a result of the designs of the proposals, will present new and additional means that heavily rely on human interface and involvement, thus another new layer of risk. We have witnessed pumps failing in Perth & Brechin.
21. References to "enhancement of landscaping in Musselburgh" or similar is an insult to the people of Musselburgh who can see with their own eyes what they have and the inferior landscapes the proposals offer will unquestionably gradually worsen through the years, with graffiti and lack of maintenance.
22. There has been no third party independent analysis of the impact of the proposals on Musselburgh's long connections and affinity with the sea and river as an amenity for the townsfolk and others, as well as for the tourism industry, on which many local shops depend. Flood walls will destroy amenity and Musselburgh's long connection with river and sea.
23. Negative impact on tourism to Musselburgh
24. "People depend on the environment around them for their physical and mental health, and general wellbeing" (Flood Risk Management (Scotland) Act 2009). My human rights are being eroded due to my present environment (river and coastal walks and views) being threatened. I currently use the river and coastal areas of the town on a daily basis for walks, birdwatching and mindfulness to maintain my physical and mental health.
25. The arguments against whole catchment area development have frequently touched upon multiple ownership of the lands in question and the unwillingness of some landowners to participate in safeguarding Musselburgh against floods. The poorest and most vulnerable are being discriminated against. Wealthy landowners should be implementing upstream natural flood management to reduce flow of water coming into the town. Instead people of a lower socioeconomic profile will be disadvantaged with a concrete wall flood scheme that sacrifices their access to nature.
26. My enjoyment of the land will be affected by scheme and its operations.
27. Removing any trees from the area will increase surface water and exacerbate flood risk for nearby paths, roads and properties as walls will block natural surface run off into the river.
28. "We are the experts. We know what we are doing". This repeated description of operations is insufficient to allow me to understand scale and nature of proposed works.
29. The volume of information, documents, images presented at the last minute has been overwhelming. The MFPS team must have realised that the public would fail to comprehend it all in the objection timeframe. This is a failure of your duty of care to ensure the information is comprehensible to the general public.
30. The information provided in the proposals is ambiguous and misleads the people of the town as to the true size and scale of proposed defences. This is entirely unethical and I request that properly scaled models and visuals are prepared for public consultation and council review.
31. No study or information has been provided on the impact of property prices in the town. An enormous part of the selling potential of a property is wrapped up in the location of that property. The river and coastal location of all properties in Musselburgh is a contributing factor to the value and selling potential. I request further information on how my property will be impacted and I expect to be significantly compensated as a result of the expected finding that my property will reduce in value and selling potential.
32. I have an interest in the land affected by the scheme and scheme operations (including but not limited to noise and pollution from construction traffic) at Fisherrow Links and Fisherrow coast. I use this regularly to walk my dog, exercise and birdwatching. My children use this for sports, football, pitch & putt, the playpark. I walk daily along the coastline for health benefits. A coastal sea defence with limited access and any scheme compound/scheme works will directly impact mine and my family's ability to continue to do so and disturb my enjoyment of the land. If the scheme proceeds in its present form without amendments I expect to be significantly compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).

Under no circumstances must communication be in person. I insist all communication with me going forward should be via email.

Please acknowledge receipt of my letter of objection. Please advise me of next steps, and timescales.

Yours Faithfully,



Sent from [Outlook for Android](#)

Carlo Grilli

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

23/04/2024

Dear Mr. Grilli,

I am writing to object to the recently published Musselburgh Flood Protection Scheme.

I object because the Environmental Impact Assessment (EIA) Report that East Lothian Council has commissioned does not meet the necessary requirements set out in EIA guidance and does not allow East Lothian Council to fulfil its biodiversity duties. Specifically:

Inadequacy of the EIA Report's Ornithology Baseline

The results presented in the EIA Report from surveys of shoreline and coastal birds (the 'through the tide counts') are insufficiently detailed to adequately assess the impacts of the Scheme on these species. This failure is especially important because the Scheme is adjacent to, or in places actually within, the Firth of Forth Special Protection Area (SPA), the Firth of Forth Ramsar Site, the Firth of Forth Site of Special Scientific Interest (SSSI), and the Outer Firth and the St. Andrews Bay Complex SPA. These are internationally and nationally important designated sites for birds, and any assessment of impacts on these designations require must be informed by comprehensive robust and appropriately detailed baseline data. The EIA Report does not present such data.

It is therefore essential that baseline bird survey data are properly presented, specifically that the distribution and abundance of qualifying features of the SSSI, SPAs and Ramsar site at least are mapped to species level and their abundance shown for each survey area (notably through the tide count survey areas), along with the key areas for roosting and foraging of those species. Without this information, the EIA lacks the necessary detail to enable consultees to judge whether or not the applicant's assessment of impacts from the Scheme is correct. Consultees cannot therefore also judge whether proposed mitigation measures are adequate, or whether the identification of residual impacts on birds can be relied upon. For all these reasons, the baseline survey data in the EIA in its current form is not fit for purpose. It needs to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report. As

additional bird surveys are still being undertaken, the more detailed results requested can be published at the same time as these additional data (but all to the appropriate level of detail).

On top of this failure to present survey results to the required level of detail for such a sensitive area and for such important species, the desk study component of baseline data collection has also been inadequate. To accord with EIA guidance<sup>1</sup>, baseline bird data should comprise both survey results and relevant pre-existing data on bird species present, their national and local population trends, and insights into their relevant behaviour. The Firth of Forth has been the subject of intense ornithological study spanning several decades<sup>2</sup>, and it is reasonable to expect that this body of data would have been drawn upon for the EIA Report, not least given the sensitivity of the area and the need to design appropriate and effective mitigation measures for construction impacts and impacts over the 100 year operational life of the Scheme. The desk study data included in the EIA also fails to meet the requests from key stakeholders. Notably, for example, the East Lothian Biodiversity Office who requested in their Scoping Report (see ELC on 28th November 2023, EIA Appendix C3.2) that *'The field surveys should be informed by a data search from ... useful data (that) may be available from sources including the East Lothian Council Ranger Service, British Trust for Ornithology and Scottish Ornithologists' Club'*.

Starting with the Scottish Ornithologists' Club, the EIA fails to incorporate into its ornithology baseline any of the comprehensive pre-existing bird data that exists for the Scheme area, collected over several years by highly experienced local ornithologists, many with decades of expertise in the area's bird life. It would be expected, at the very least, that given EIA guidance<sup>3</sup> and to comply with the request from East Lothian Council's own Biodiversity officer that the EIA authors would have submitted a data request to the Local Bird Recorder of the Lothian Branch of the Scottish Ornithologists' Club (SOC) to obtain relevant bird records for the area impacted by the Scheme. This was not the case, and therefore the EIA ornithology baseline suffers by not having the detailed insights into species presence, abundance, distribution and behavioural patterns to adequately inform its assessment (including of cumulative impacts), mitigation design and proposals for enhancement. This is particularly the case for the assessments of impacts from the Scheme's construction compounds, the seawall improvement works, and the two sections of the Musselburgh Active Travel Network (ATN).

Moving on to obtaining desk study data from the British Trust for Ornithology (BTO), this key organisation administers a number of bird recording schemes, including the Wetland Bird Survey (WeBS), which cover this area. It is EIA good practice, as part of gathering desk study data for developments in coastal areas, to obtain and present WeBS results, alongside survey data. Bird surveys commissioned for EIAs are inevitably restricted to relatively short-term sample surveys, comprising snapshots of bird activity. The WeBS scheme and its predecessor have been running for decades and provide important long-term insights into species composition and abundance of waders and wildfowl of key sites, and long-term population trends. In particular, for large designated sites like the Firth of Forth SSSI/SPA/Ramsar, WeBS data are also essential to place local bird populations (i.e. the birds present in the Scheme area) in their wider Firth of Forth context, so that impacts from the Scheme, and cumulatively with other projects, can be adequately assessed. Whilst it is noted that in Section 7.3.3 of the EIA it

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<sup>1</sup> See the Environmental Impact Assessment Handbook: Guidance for competent authorities, consultation bodies, and others involved in the Environmental Impact Assessment process in Scotland Version 5, April 2018. NatureScot and Historic Environment Scotland.

<sup>2</sup> E.g. Bryant, D. (1987) The Natural Environment of the Estuary and Firth of Forth. *Proceedings of the Royal Society of Edinburgh, Section B: Biological Sciences*, Volume 93, Issue 3-4, pp. 509 – 520 DOI: <https://doi.org/10.1017/S0269727000006916>

<sup>3</sup> For example, see C.6.3 and Box C. 6. Practice .1. in the reference cited in Footnote 1.

states that the desk based assessment included data responses from organisations including the BTO, detailed WeBS data are not provided. The reference to WeBS data is limited to total species counts (in the EIA Section 7.5.6.1 'Desk-study and preliminary ecological appraisal'). This states:-

*'Data obtained during the desk-based assessment identified the potential presence of the following protected species within the study area:*

- *Wintering wetland birds: the BTO Wetland Bird Survey (WeBS) data for the five-year period from 2013/14 to 2017/18 identified a total of 70 species of wetland birds (which includes unidentified and hybrid species) within the Eastfield to Musselburgh WeBS sector. Of these 70 species, 55 were recorded in the winter months during this period. The five-year mean peak count of wetland birds within the Eastfield to Musselburgh WeBS sector is 4,878 individuals, with a five-year winter mean peak recorded as 5,259 individuals (see Appendix B7.4 for details):*

Instead of these agglomerated count figures, the EIA Report should provide the species-specific WeBS data. Furthermore, and contrary to the Chapter's statement that details of WeBS data are provided in Appendix B7.4, there are no details provided on the WeBS data for the area in that Appendix. What is required for the EIA (and HRA) is a map of the WeBS count sector to compare with the survey areas used for the through the tide counts, and for the WeBS data to be tabulated by species, comparing abundance figures from the survey work. Neither are presented in the Biodiversity Chapter or any of the published EIA Report Appendices.

Lastly in relation to the WeBS data, the totals that are presented are out of date, being '*from 2013/14 to 2017/18*'. The desk study for the EIA should have obtained the most recent five-year dataset available, i.e. up to the 2022/2023 non-breeding season, to help inform the assessment.

The inclusion of detailed WeBS data is common practice in EIAs (and HRAs) for coastal developments, in particular where developments overlap or are in close proximity to internationally important sites designated for their bird interests. As already highlighted, without these details, it is not possible to contextualise or corroborate the survey data provided by the applicant. This and the wider omissions in desk study data need to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report.

#### Baseline Survey Accuracy

The bird survey data on which the Scheme's EIA Report depends appears to contain apparent anomalies, with some species noted that either have only very rarely ever been recorded locally and other species which may be mis-identified. The inclusion of these records undermines confidence in the reliability of bird (and other) survey work carried out for the EIA Report, and also in the rigour of the quality assurance processes that have been applied during the collection, processing and writing up of data used in the EIA Report. Specific examples include records of Stone-curlew, Water Pipit, Twite breeding, "flyover" Wood Warbler, Whimbrel in November, a Kittiwake flying up the river Esk (Appendix 7.4). Based on over 60 years of data held by the SOC, these records require verification. The almost daily coverage by experienced birdwatchers over the survey period also points to other anomalies, such as occasions when a large count of Velvet Scoters is reported in the EIA Report at a time when only a Common Scoter flock was present. Such questions on the reliability of the survey data are critical, given the conservation importance of qualifying features of the Firth of Forth SSSI, SPAs and Ramsar sites and Outer Forth and St Andrews Bay Complex SPA in such close proximity (and in some areas,

overlapping) with the Scheme. It also underscores the importance of consultation with bodies such as the SOC and BTO to ensure that pre-existing data for the Scheme area are obtained, adequately used to aid data validation and quality assurance, and properly integrated into baseline data.

One further concern over the baseline survey surveys is the validity of the ‘through the tide counts’ which coincided with the construction activity for the new lagoons between 2021 to June 2023. Given that the EIA Report acknowledges that construction traffic along the seawall will cause disturbance to birds (including qualifying features of the Firth of Forth SSSI, SPA and Ramsar site), evidently the results from these surveys were not representative whilst the lagoon construction was on-going. NatureScot guidance on bird surveys clearly highlights the principle that surveys should not take place where there is disturbance that may change the abundance, distribution or behaviour of birds within the survey area<sup>4</sup>. This precaution has not been followed therefore, and it further undermines the reliance that can be placed on a significant proportion of bird survey data used in the EIA Report.

It is understood however, that bird surveys are still being carried out, I therefore object until these un-impacted additional bird survey results are published as part of the submission of Further Environmental Information and HRA.

#### Failure to Identify and Assess Habitat Loss from the Scheme

The EIA Report attempts to identify and quantify the loss of habitats from the Scheme, to assess the significance of these losses, the mitigation that will be required and the resulting residual impacts and their significance.

However, it completely fails to identify the main habitat impact from the Scheme, namely the loss of shoreline and inter-tidal habitats over its 100-year operational life. These losses will occur as a direct result of the Scheme’s construction of hard defence structures along the coast where these are currently absent or limited, through what is known as ‘coastal squeeze’. This impact needs to be fully identified and assessed in the EIA Report, in particular the Scheme’s proposed hybrid wall structures at Work Sections 6 and 7 (impacting 325m and 290m of coastline respectively) and its concrete walls along Work Sections 8 and 9 (impacting 393m and 132m of coastline respectively) (see Table 4-2 ‘Summary of Scheme by work section’ in Section 4.4.1 Scheme Layout Overview, and Figures Appendix A41j to A41l in Appendix A of the EIA Report). The existence of this operational impact is not even mentioned in the EIA Report Biodiversity Chapter, let alone assessed, with only the most cursory mention given in 7.5.9.3 ‘General trends’. The EIA Report therefore does not meet its own commitment (in Section 3.6.2 ‘Future baseline’) to complete ‘*Where appropriate, an appraisal of the future baseline without the Scheme ... where feasible to allow for consideration of the operational impacts of the Scheme over its 100-year design-life*’.

This is of particular concern because these habitat losses will impact the qualifying features of the Firth of Forth SSSI, SPA or Ramsar Site (and the conservation objectives of the latter two designations).

The omission of this impact in the EIA Report must be rectified and the necessary modelling and full assessment of habitat loss from coastal squeeze be fully assessed and published as Further

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<sup>4</sup> Although relating to bird surveys for wind farms, the importance of avoiding construction disturbance that may affect survey results is made clear in Section 2.1.1 and Box 1 in NatureScot (2017) Recommended bird survey methods to inform impact assessment of onshore wind farms. March 2017, Version 2.

Environmental Information. The assessment of these habitat losses on the integrity of the Firth of Forth SPA and Ramsar Site must also be included in the HRA, to inform the compensation that will be required, if should a derogation case be accepted.

Given how important this impact is, it is also worth re-stating the Council's published Scheme objectives (EIA Report Chapter 4, Section 4.1 and Table B4 in Appendix B4) that include the following Environmental Objectives:-

- 1. That the Scheme will achieve as a minimum a neutral impact on the environment.*
- 2. To ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures.*
- 3. To ensure that the Scheme considers the impact of climate change and includes appropriate provisions to mitigate any impact.*
- 4. To ensure that the Scheme considers in full, and includes for any appropriate measures, to protect the Firth of Forth and its protected statuses.*

Clearly, these objectives cannot be achieved if the Scheme's impacts are not adequately identified, assessed, and mitigated and if mitigation or enhancement proposals (such as those in EIA Report Table 7.7) are not considered in terms of resilience to sea level rise and climate change.

In addition to failing to include operational habitat loss, the habitat loss figures that are currently included for construction and operational impacts lack clarity and consistency across the Biodiversity Chapter and Appendices. For example, the extent of temporary lost habitat given in Section 7.6.2.1.1 'Firth of Forth SPA and Ramsar' is given as 'approximately 2.14 ha' but the habitat breakdown figures only add up to 1.711 ha. Similarly in Section 7.6.3.1.1 'Firth of Forth SPA and Ramsar', the permanent loss of habitat from the Firth of Forth SPA and Ramsar is given as 4.3 ha, but again the figures for the habitats lost amount to just over 1.46 ha. This lack of clarity and inconsistencies in the EIA Report make it difficult for consultees to clearly understand the scale or location of the Scheme's habitat impacts. It is important that these losses are clarified, including in the HRA prior to its finalisation, and if necessary, through the submission of Further Environmental Information.

#### Failure to Appropriately Identify Plans and Projects to Consider for the Cumulative Impact Assessment

Section 7.3.9 'Cumulative effects' of the EIA Report identifies that 'A review of developments in the local area as listed on the East Lothian and Midlothian Council planning portals was conducted. The assessment focused on developments of any size within the working areas and those over 1 ha in size up to 5 km from the working areas in Musselburgh and the reservoirs. In addition, Grangemouth Flood Protection Scheme (GFPS) was also considered as part of the assessment, as requested by NatureScot during consultation for GFPS'.

The cumulative assessment needs to encompass developments that have significant potential to impact key ecological receptors. The potential for cumulative/in combination impacts is determined by impact pathways, not by arbitrary thresholds such as development size or distance from the Scheme (neither of which have any regulatory basis or reflect CIEEM



guidance)<sup>5</sup>. Movement of birds around the Firth of Forth SPA/Ramsar site have been relatively well studied, and this information should be referred to in order to help determine potential impact pathways, and thereby the plans and projects that need to be taken account of in the cumulative/in combination assessment. It is important that this impact/pathway/receptor approach is adopted in the HRA's 'in combination' assessment, if made available to consultees, otherwise through the submission of Further Environmental Information.

### Repeated Lack of Evidence to Substantiate the Findings of the Impact Assessment

In order to comply with EIA guidance, it is essential that the assessment of impacts is supported by appropriate evidence. However, the EIA Report consistently fails to provide evidence to back up the assessments made on construction and operational impacts of the Scheme on birds.

The rare instance when evidence and published peer reviewed information is referenced in support of the assessment of impacts is for kingfisher (see section 7.6.2.3.4). Kingfisher is only a species of regional importance, yet the EIA Report's assessments of impacts on internationally or nationally important bird species are repeatedly made without any reference to peer reviewed or other evidence, or even to standard NatureScot guidance (for example, in relation to disturbance, Goodship and Furness 2022<sup>6</sup>). A typical example of unsupported assertions is in Section 7.6.3.1.1 'Firth of Forth SPA and Ramsar', which states 'The remaining area to be lost within the SPA is comprised of habitat rarely used by qualifying species and therefore is considered unlikely to provide functional habitat'. There are no data presented to back up this assessment, since the EIA and its Appendices omit the necessary detail on the distribution and abundance of individual species.

This is a clear omission and weakness in the EIA Report, is contrary to guidance and good practice, and reduces the reliance that can be placed on the assessment or effectiveness of mitigation proposed. It also falls short of the robustness and detail of EIAs for other developments in the area<sup>7</sup>. Furthermore, East Lothian Council, who commissioned the EIA, has an actual duty to protect and enhance biodiversity. This duty cannot be adequately discharged without detailed baseline EIA (and HRA) bird data from which impacts on birds or other wildlife can be assessed, mitigation designed, and residual impacts identified.

It is also important to note that for the HRA the best available scientific evidence must be used, and the Council, given its Scheme objectives and biodiversity duties, must ensure that this is the case, being responsible for commissioning the EIA Report (and HRA).

### Repeated and Unsubstantiated Downplaying of Conservation Importance and Impacts in the Assessment

There are repeated instances in the EIA Report's Biodiversity Chapter where assessments of impacts on birds downplay (i) the value of their habitats - because it is stated they are already subject to disturbance, or (ii) the significance of disturbance to birds - because it is stated they

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<sup>5</sup> Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. September 2018 Version 1.2 - Updated April 2022

<sup>6</sup> Goodship, N.M. and Furness, R.W. (2022) Disturbance Distances Review: An updated literature review of disturbance distances of selected bird species. NatureScot Research Report 1283.

<sup>7</sup> See, for example, the inter-tidal and near-shore bird data presented in Appendix 6C: Intertidal and Near-shore Bird Surveys of the Inch Cape Onshore Transmission Works EIA report (ICOL, 2018b) at [OnShore-EIA-Appendix-6C-1of-2.pdf \(inchcapewind.com\)](#) and [OnShore-EIA-Appendix-6C-3of-4.pdf \(inchcapewind.com\)](#). Others include the EIAs for [SSE Seagreen 1A](#) and for the Cockenzie Combined Cycle Gas Turbine Power Station application.

will move elsewhere within the SPA, or (iii) impacts being insignificant - because the area of impact is small. These assertions are consistently unsubstantiated by evidence (as already highlighted above) and are a style of assessment more typical of commercial developers seeking to justify damaging protected sites. These assertions are inappropriate in those circumstances, but are totally inappropriate for Councils, given the legal and policy obligations they are under to protect and enhance biodiversity, notably the Nature Conservation (Scotland) Act 2004 and National Planning Framework 4 (NPF4). Furthermore, no reference is made to the fact that many wildfowl and wader populations in the Firth of Forth have already suffered long-term declines as a result of development impacts, disturbance and habitat loss<sup>8</sup>, and that approximately one third of the Firth of Forth SPA/Ramsar's qualifying species are in unfavourable conservation status (Protected Nature Sites ([sepa.org.uk](http://sepa.org.uk)), accessed 19.04.2024). The Councils around the Firth of Forth, together with the Scottish Government, NatureScot, businesses and local communities, need to be working together to ensure qualifying features of the SSSI, SPA and Ramsar site return to favourable conservation status.

Examples of the unsubstantiated downplaying of conservation importance of habitats or species, and of impacts are, for example, in Table 7-5 Summary of Baseline Conditions and Evaluation of Importance of Ecological Features, which includes the statement that 'The sand dunes within the study area are narrow and disturbed; therefore, it is considered they do not meet the SSSI designation criteria'. In Section 7.6.2.1.1 'Firth of Forth SPA and Ramsar', another unsubstantiated statement is made, 'The area temporarily lost during construction constitutes a narrow linear area adjacent to the coastline which experiences high levels of disturbance from public use. This area is not considered to be important habitat for qualifying interests of the Firth of Forth designated sites, in comparison to the large expanse of sand flats along the coastline and the lagoons at Levenhall Links'. There is, however, no evidence to back up these assertions, on factors such as prey availability, carrying capacity, exposure to disturbance, or any of the other influences that need to be considered in order to robustly assess these impacts. The same applies in the assessments made in Sections 7.6.3.1.1 Firth of Forth SPA and Ramsar, 7.6.3.1.2 Outer Firth of Forth and St Andrews Bay Complex SPA, and 7.6.3.1.3 Firth of Forth SSSI. These are sites of international and national importance for conservation, already under significant multiple pressures, and it is essential that assessments of impacts are evidence-based and robustly reasoned. This is not the case currently, and this must be rectified. It is therefore essential that the Council (or Scottish Ministers) exercise the right to request further evidence, through Further Environmental Information and in the finalised HRA, in accordance with EIA guidance (see for example, NatureScot and Historic Environment Scotland (2018), referred to in Footnote 1, specifically Section D. 6), before confirming the Scheme.

#### Disturbance to Birds During the Scheme's Operational Phase

Related to the point of objection above on lack of evidence to support the assessments on international and national designations (in Sections 7.6.3.1.1, 7.6.3.1.2 and 7.6.3.1.3), the EIA Report notes that:-

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<sup>8</sup> e.g. McLusky, D., Bryant, D. and Elliott, M. (1992) The impact of land-claim on macrobenthos, fish and shorebirds on the Forth Estuary, eastern Scotland. *Aquatic Conservation: Marine and Freshwater Ecosystems* Volume 2, Issue 3, pp. 211-222, or Dwyer, R. (2010) Ecological and anthropogenic constraints on waterbirds of the Forth Estuary: population and behavioural responses to disturbance. *Environmental Science, Biology*.

*'The improvements to the active traffic network (particularly along the seawall and at the proposed Goose Green Footbridge) may result in increased pedestrian and cyclist traffic, which may create increased operational disturbance to qualifying bird species'.*

Evidently the Council's EIA Report makes it clear that it is uncertain whether or not the ATN works will result in increased active travel, in which case how can the expenditure, additional risk of impacts on internationally and nationally important designated sites, and carbon footprint of constructing these two ATN elements of the Scheme be justified? Without strong independent evidence that there will be sufficient active travel benefits, these two elements need to be removed from the Scheme (not least as there are already footpaths and cycle paths along these sections of the Scheme coastline).

That objection aside, these EIA Report sections contain no evidence to support the assessments made operational disturbance, and as such they are unsupported conjecture. This needs to be rectified (including in the HRA), firstly by inclusion of clear evidence-based and quantified prediction of the level of increased activity as a result of the ATN path and Goose Green Foot Bridge construction, compared to present levels<sup>9</sup>, and secondly by ensuring the assessment of disturbance impacts on each qualifying species of the SPAs, Ramsar and SSSI are made on the basis of these predicted operational levels of activity, and supported by an appropriate level of detail and evidence.

Until such time as these are provided, I object to the Scheme.

#### Impacts on Recreational Amenity Over the Construction Period, Specifically Birdwatching

Musselburgh is one of the most visited birdwatching sites in Scotland (based on the number of referrals to the Musselburgh entry on the SOC's 'Where to Watch Birds in Scotland' mobile app), enjoyed by hundreds of visitors every year. This tourism and amenity value of the Scheme area for birdwatching is not given recognition in the EIA Report, and as a result there is insufficient attention given to mitigating disruption to this activity. This is significant because, as noted in EIA Report Section 4.7.3 'Sequencing of construction work', the Scheme's construction phase could take a period of five to ten years, imposing long-term damage to the area's use and reputation as an ornithology visitor attraction.

#### The Decision to Date by East Lothian Council Not To Publish the Draft HRA

No access has been provided to the current draft HRA for the Scheme. It would be greatly appreciated if the HRA could be made available by the Council, not least because, it would provide those with detailed local knowledge of the area's birds to provide useful feedback. In addition, in the meantime, it is respectfully suggested that the Council make a request to the SOC for relevant pre-existing bird data, and also to BTO, for species level and up-to-date WeBS data, so both sets of information can be included in the HRA and used as evidence to contribute to a robust assessment of effects from the Scheme alone and in combination with other plans and projects.

Please acknowledge receipt of my letter of objection, in writing. Please also advise me of next steps, and timescales. Thank you very much.

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<sup>9</sup> Presumably these estimates are available from the business case for use of public money on the Musselburgh Active Travel Network.

Yours Faithfully,

[Redacted Signature]

**Subject:** (0457) Flood Protection Scheme 2024 - Loss of Horse Paths

**Sent:** 23/04/2024, 23:16:02

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

23<sup>rd</sup> April 2024

[REDACTED]

Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

Dear Sir / Legal Services

I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024. I have an interest in the land affected because I regularly ride my horse on the bridle path that will be decimated by the construction of the debris catcher across the Esk on the west side of the overbridge that carries the A1 dual carriageway and the works to construct access roads to the debris catcher.

These are my reasons for objection to The Scheme:

1/ Disturbance: The construction traffic and all maintenance vehicles will be using a narrow quiet road that I use to ride my horse on for my mental and physical health and wellbeing. This will cause a noise and dust nuisance to me which does not currently exist.

2/ Traffic Generation: The road the debris catcher construction traffic and subsequent debris catcher maintenance traffic propose to use is a narrow private road and used by horse riders, walkers with prams and small children, the movement of livestock, a low volume of cars accessing the livery yard and light farm traffic. It has a speed limit of 10mph. Vehicles must not pass horse riders or horses being led any faster than 10mph. Using this narrow private road for heavy construction and maintenance vehicles will put the other road users at risk and will create a health and safety issue. It will also damage the already fragile road surface.

3/ Unnecessary cost: I really object to tax payer money being wasted to create a new access road to the Esk when there is already a fit for purpose, flatter tarmac access road from Cowpits Road. The proposed site of the debris catcher currently has no access for vehicles of any sort. It is an unsurfaced rural path and totally unsuitable for heavy vehicles. The plans show the access road will need to be constructed over a soft grass livestock field, then through an ancient and well established woodland, down a steep fragile river path that is not robust enough to support heavy construction vehicles and subsequent heavy machinery and vehicles needed to clear the debris catcher. The entire river banking would need to be reinforced before it could be used for this purpose. There is already an asphalt access road to the Esk in Grove which has easy access from Cowpits Road. Therefore a cheaper and less damaging option would be to place the debris catcher to the east of the A1 dual carriageway over bridge, in the vicinity of the railway over bridge and use the existing asphalt access track/road along the Grove to construct the debris catcher and subsequent debris removal. However removing any type of debris catcher from the scheme is the best option because wherever one is constructed, there will be an unacceptable cost and it will cause flooding in the areas upstream where there was previously none. It simply shifts the problem and does not provide a solution.

4/ Environmental Impact: The construction of the access road for the debris catcher will result in the loss of grazing land. The construction and extraction process will disturb and worry the livestock. It will damage and destabilise the fragile high river bank path resulting in landslips.

Hundreds of trees and the natural path will need to be destroyed in order to build a road wide enough for the construction and debris extraction vehicles. The destruction of trees and natural habitat will be damaging to the wildlife in this location. There are deer, foxes, hare, buzzards, bats, squirrels, possibly badgers and other creatures

too numerous to list in this woodland. In this world of climate change activists we are supposed to be saving trees not destroying them for a poorly designed flood protection plan that is likely to cause more flooding and environmental damage than if no action was taken at all. It is an absolute disgrace that the designers have concluded that it is acceptable to destroy this area of natural beauty and the wildlife that occupies it when the proposed debris catcher will actually do more harm than good. The proposed mitigation plans are woefully inadequate and poorly thought out,

5/ Flood Risk: Common sense and logic would make a sensible person conclude that the proposal to narrow the river in Musselburgh is more likely to cause flooding in Musselburgh and also damage the environment by causing areas upstream to flood. This will increase erosion and cause multiple landslips along the already fragile and crumbling Esk Valley.

Additionally my experience of debris traps is that when they are blocked and a dam is formed, there are never any Council resources available to deal with the blockages in a timely manner and the surrounding areas become severely flooded. The debris catcher will ensure more areas along the Esk will be flooded than before. The plans for a debris catcher should be removed completely from the scheme.

6/ Loss of Amenity / Health and Well Being: The construction works would be detrimental to my mental and physical health and wellbeing. The proposed site of the access road and the debris catcher will spoil my enjoyment of the countryside. I ride my horse on this woodland bridle path and ford the river at this point several days a week. Building the access road and debris catcher in this location would rob me of this healthy activity. There are around a hundred or so horse riders that regularly ride horses on the bridle path and ford the river. Robbing them of this natural path and the ability to ford the river to enjoy the bridle path on the opposite side will negatively affect their health and wellbeing too.

The Musselburgh Flood Protection Scheme design has conveniently ignored the requirements for horse riders of which there are hundreds in the local area. The design of the scheme and its active travel plans excludes and discourages horse riders the majority of whom are women and children. The loss of amenity for horse riders must not be ignored and the scheme should be redesigned so horse riders are included and catered for.

7/ Lack of Consultation: There has been no attempt to communicate the proposal for the access road and debris catcher to those who access the Dalkeith Park Estate from the Monkton Gate from Old Craighall. There has been information available at the Whitecraig Gate. Why was the same information not provided at the Monkton Gate where the impact of the Scheme is going to be much more damaging and serious?

Yours Faithfully

A large black rectangular redaction box covering the signature and name of the sender.

[REDACTED]

E-mail: [REDACTED]

23rd April 2024

Carlo Grilli  
Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

Dear Sir

I am writing to object to the recently published Musselburgh Flood Protection Scheme (MFPS). I am a resident living in Musselburgh who regularly uses the river, seashore and lagoons all of which are subject to these proposals. in the vicinity of the proposed works to the river and the seashore. These spaces are all valuable to me as a resident for my physical and mental wellbeing. My aunt and grandmother both live in [REDACTED] and will be adversely affected by these proposals not just from a loss of amenity but suffering from increased traffic, increased disturbance. This scheme I believe will have an impact on my family's ability to support them with the increased traffic in Musselburgh making it harder to get to them quickly in an emergency or take them for key medical appointments and essential shopping.

I am currently a student with [REDACTED] and my field of study is [REDACTED]. I am extremely concerned that this scheme is misaligned to current thinking in many areas. Coastal erosion is a key element of this with many schemes including Restoration Forth in progress to restore balance to our marine environment. This scheme will also have an impact on tourism and the local economy yet the Scottish Government along with many other Scottish, United Kingdom and international bodies are focused on sustainable tourism to encourage visitors to enjoy our heritage while working with nature to preserve these hugely important areas. I cannot find anywhere within the documents I have reviewed any consideration of

existing schemes to work with nature or the impact on our local economy and tourism within the area. It should be remembered that the River Esk is an area of historical importance with two notable elements being the Roman Bridge site and its link to the Roman fort in Inveresk and also the Battle of Pinkie Cleugh fought on the banks of the river in 1547. These plans do not appear to respect these from my interpretation of the information.

I object to the published scheme because:

### **Cost**

The scheme is currently costed at £132m in total, including £53m for the flood protection element of this. I can find no details which indicate that these costs are final, or that the chosen contractor has agreed contractual terms which prevent costs rising or has penalties in the event of any breach of contract by them for any element whether it be financial, construction or health and safety as examples. This is a concern at a time when council services are being cut and in effect from the information available to me the final council costs are unquantified.

It is incumbent on East Lothian Council in its entirety to ensure any contractual terms protect the interests of its constituents whether it be financial or otherwise and I have unfortunately failed to find any evidence that East Lothian Council have fulfilled this obligation.

I understand that £4m, from the information available to me, had been spent by December 2023 on design and consultations. This is a particular concern when we are consistently seeing a decreasing budget available for core Council services such as social care for the vulnerable and elderly within our community (which would directly impact my mother and ultimately my family if she is not properly cared for due to budget cuts), essential community health and wellbeing amenities: libraries, leisure, and culture. Within Musselburgh we have already seen a significant impact and I would highlight as an example, the closure of the Brunton Hall Theatre and the loss of the café within this building which was used by many including myself due to its proximity to public transport and disabled parking.

I believe that the scheme in its current form highlights that the budget and spending priorities for East Lothian Council do not match the needs of East Lothian Residents and with the current uncapped costs places an unnecessary financial burden on myself and my fellow residents within East Lothian. It is incumbent on East Lothian Council to demonstrate that within this scheme they have met this obligation.

Having researched further and from council meetings online it appears that East Lothian Councillors have voted for the scheme to progress on a false premise that if funding is not secured in Cycle 1 then the opportunity will be lost, however, from the information available to me it would appear that funding will be available in Cycle 2 which Musselburgh will qualify for.



The Scottish Government & COSLA working group on flooding has recognised the model of uncapped funding (known as Cycle 1) allows project consultants/developers to expand flood schemes into much larger, and more costly, projects. The escalating costs of this project should be scrutinised and capped to prevent further inflation of project and costs.

Musselburgh has been highlighted as the priority; however, recent reports suggest that the shore at Prestonpans to Port Seton is at greater risk and it is well documented that Haddington has a significant flood risk. I believe that East Lothian Councillors have made costs decisions based on, at best, incomplete information which does not make the best use of financial resources within East Lothian to protect the homes and businesses of areas which are from the information available to me considered more vulnerable than Musselburgh at this time.

One question which remains unanswered, and I cannot find any details for is the ongoing maintenance costs of this scheme which are significant I can only presume, without proof to the contrary, these will be significant, however, there appears to be no future planning for this and as noted earlier core council services are being reduced and East Lothian Residents should not suffer further for a scheme with no clear sight of data on additional costs. There are many examples, in my view, of the failure of East Lothian Council to carry out routine maintenance in the county under their current financial position and the burden the scheme in its current form will bring is unprecedented with no clear plan of what this will involve from the questions I have asked or the evidence I have seen.

The loss of use of the Riverside, Seashore, Fisherow Links and the lagoons which has a direct impact for myself I believe will require compensation to be paid to myself and many others. In addition, I believe the works will have a significant impact on the value of my home which I would fully expect to be compensated for under the Flood Risk Management (Scotland) Act 2009. The scale of the works will severely impact our enjoyment of our family home due to the noise, dirt and pollution due to the construction in Musselburgh most specifically at [REDACTED] and the [REDACTED]. I will also lose the use of the river, seashore and Fisherow links during the construction phase all of which are important.

I do not believe that any consideration appears to have been given to the impact on the more vulnerable members of our communities for whom this will great a great deal of stress and anxiety and those who care for them. I am sure I am not the only carer impacted in this way.

[REDACTED] is already heavily congested and well used by motorists, cyclists, and walkers and at times it is difficult for cars to travel along this street. The addition of construction traffic including large lorries, will bring a huge amount of congestion to New Street, Eskside, Mall Avenue as examples with many more routes impacted. I fear as stated elsewhere in this letter this will cause difficulties and impact my ability to support them on a day to day basis or reach them in an emergency,

I cannot stress strongly enough the wider impact this will have in our community if people cannot travel with minimum disruption due to the proposed flood scheme and associated works..

I have mentioned my concern about council budgets being under pressure for essential care. My [REDACTED] relies heavily on her carers to allow her to live at home as independently as possible. It is extremely worrying to me that she and many others in her position could be made to suffer if provision is reduced due to pressure on budgets while money is spent without due diligence, or a true understanding of the cost being committed to. East Lothian have a duty of care to all vulnerable groups which includes children and adults to ensure the funds available to them are spent in the best interests of East Lothian and I strongly believe that this is not the case with the current proposals and as stated above it is incumbent on the local authority to demonstrate good stewardship and governance of public money for the benefit of the communities they serve.

### **Science/data**

The MFPS does not offer alternative scenarios. It is tied to a 1:200-year climate change event. Scottish Government guidance says that a range of scenarios should be included. I do not believe that East Lothian Council have been given a range of options to judge what is necessary protection leading to potentially incorrect judgements being made by paid and elected officials. The figures provided by SEPA are predictions but by no means a certainty, yet the current proposals appear to take the view that these figures are a certainty.

East Lothian Council has commissioned a report on the coast from Dynamic Coast, which has been reported on in the press ([Beach in East Lothian suffered five years of damage in two days during storm - Edinburgh Live](#)). This report highlights that the planned defences will not work as they are not designed to deal with coastal erosion. It is inconceivable that a decision was made in January without this report being available particularly as it highlights the shortcomings of the current proposals in particular regard to the seashore. There are several highly publicised nature-based solutions already in place within the Forth estuary yet none of these, to the best of my knowledge, seem to have been considered or included in the consultations prior to the current scheme being developed which I believe is a major failing of East Lothian Council in its entirety and falls far short of the governance and diligence we are entitled to expect from appointed staff and elected officials.

I am aware that many residents have asked to see the data underpinning the scientific calculations of the project team, but these requests have been ignored. This concerns me greatly and I would like to be made aware of the reason for this as it does not seem unreasonable for residents to have access to this key information to allow them to assess if they feel the scheme meets the needs of their hometown.

The project team say they have adjusted flood defence heights in response to local feedback. From my own observations this amounts to fitting the science around the

preferred outcome, rather than science/data leading to a properly calculated outcome. This makes no sense. I have spent considerable time reviewing the plans on the website with my family and I remain unable to identify the height of the walls proposed, however, from discussions I am aware of it will be hard for someone [REDACTED] who uses a wheelchair or wheeled walker when outside [REDACTED] to see anything other than the wall along the river. I would also point out that the ramps proposed will be extremely difficult [REDACTED] to use with [REDACTED] walker [REDACTED] [REDACTED] push [REDACTED] up in [REDACTED] wheelchair. Our local river is an important amenity for many and being deprived of the opportunity to enjoy this will have an impact on the physical and mental wellbeing of many of my neighbours and fellow residents who enjoy spending time here year-round.

Climate change may mean there is increased risk of flooding in future, but there are communities at much greater and more immediate risk. As I mentioned above Prestonpans, Cockenzie, Port Seton more locally and within Scotland Dumfries, Perthshire etc all seem to be at a greater risk. The damage suffered in North Berwick to the harbour more recently springs to mind as another example of why priorities should be reevaluated by East Lothian Council and the Scottish Government to ensure public funds are spent where the need is greatest, and a plan should be in place for our county.

I understand that East Lothian Council were informed that Natural Flood Management (NFM) should be restricted to three interventions (use of 2 small reservoirs in the Pentlands, and a tree-catcher in Dalkeith Country Park). NFM could include an entire range of techniques to slow the flow of the river throughout the catchments, and to encourage the natural dune system along the coast. I believe it is a huge misjudgement that these were discounted at the start is wrong and the situation is made worse by the exclusion of NFM decided upon in October on the recommendation of Jacobs and backed by the elected councillors.

From my research I am concerned that the evidence presented to our elected officials in October was incorrect and the decision was also influenced by the way this information was presented. NFM, I believe offer longer terms benefits to our local environment, those further upstream and offer a more sustainable way to address the flooding risk within Musselburgh especially in view of the climate emergency spoken about by East Lothian Council. I passionately believe that NFM solutions should be central to any scheme taken forward by East Lothian Council.

An example is native oysters (*Ostrea edulis*) which are native to the Firth of Forth and Scotland as a whole and are known for their ability to filter water and store carbon helping reduce carbon emissions by filtering 50 gallons of water a day. They also create a habitat by fusing together to form a reef which in turn increases the areas biodiversity as well as helping to reduce coastal erosion which as seen recently will have a greater impact in the future. [How oysters help fight climate change \(worldwildlife.org\)](https://www.worldwildlife.org/stories/how-oysters-help-fight-climate-change) gives a great amount of detail about the benefits to our climate, yet, I have found no details about these sorts of solutions in any of the project information. [Restoration Forth](#) is

actively working to restore the oyster beds and seagrass meadows to deliver Marine restoration in the Firth of Forth and across Scotland. Greater consideration needs to be given to these projects which work with nature to restore our environments rather than creating man made solutions which will cause greater harm to our environment.

There are several examples where man-made flood schemes have failed, two of which were here in Scotland. The impact in Brechin of the flood walls failing was highly publicised as was the failing of floodgates in Perth. These evidence that man-made solutions do not prevent downstream flooding. Action is required upstream to ensure the flow of water is slowed or indeed excess water stored so it does not rush downstream causing flooding.

More recently we have seen evidence that the Scottish Government is heading towards NFM with [the Minister stating](#) “The Scottish Government recognizes the importance of natural flood management (NFM) measures in reducing, slowing or otherwise managing flood waters across catchments and along the coast while also delivering multiple environmental benefits.” East Lothian Council have failed to give any sincere consideration to NFM to the detriment in my view of biodiversity within the River Esk and the shoreline at the Forth Estuary. This is a travesty for future generations who will face a bigger battle with climate change without the help of our established trees and wildlife to maintain our environment.

My last point is around the use of concrete to build flood defence. The level of emissions produced in the manufacture of concrete are well documented and, in a report, released by Princeton University in 2020 stated that the manufacture of concrete creates four billion tonnes of carbon dioxide worldwide each year. The level of concrete shown in the outline plans is staggering, together with the impact of the construction itself, additional traffic in Musselburgh and surrounding areas and the loss of trees and other biodiversity within the area it could be argued that the proposed flood defences will do more to add to the climate emergency increasing the risk of flooding whereas with NFM there is an opportunity to reduce the risk of rare flood events in Musselburgh while working with rather than against nature as has been shown to work in many other countries recently.

As a regular user of the Lagoons it is easy to see that concrete has a limited life, and while I am aware of the inclusion of the repair of these walls in the scheme I also object to what is proposed. This is an area rich in biodiversity and only now recovering from the year long works to the last two lagoons. I have lived this area [REDACTED] and can remember how these looked when they were ash lagoons [REDACTED] children played. I have watched as nature itself took on a large role in restoring balance to this area. I am happy to acknowledge the care taken with this and look forward over the coming years to see the wildlife and biodiversity recover and evolve. The proposal as they stand will have a huge impact on the efforts already made by our local Ranger service and Scottish Power in paying for these works as part of their contract and in my view further adding to the climate emergency we are facing.

## Transparency and process

My first concern around the lack of transparency is the lack of engagement from our elected representatives to understand the breadth of feeling among residents. There are several documented examples of constituents trying to interact with their elected representatives only to find that the project team were responding to them. This is unacceptable and I believe shows the lack of independence of East Lothian Council and the project team. It is entirely reasonable to expect that elected representatives are speaking for their constituents and respond in a timely and professional manner.

The documents have in the main been published online making it difficult to view the latest plans in their entirety. Many family members have struggled with this format and with help from myself and other would have found it hard to understand what was proposed. I believe that this lack of transparency and availability of key information to all members of our community is another element of a flawed process which is designed to disenfranchise many sectors of the Musselburgh community. I would also highlight the lack of transparency to East Lothian residents who will be, by default, funding any potential scheme and its ongoing maintenance yet have been, to the best of my knowledge provided with minimal information.

It is disappointing that we as lay people are left spending several hours trying to view and understand the latest plans. This lack of transparency was also evident on 23<sup>rd</sup> January 2024 when agreement to the scheme progressing was given despite councillors having insufficient information an example being the Environmental Impact Assessment (EIA) which they did not have full sight of but voted through on the strength of only a non-technical summary. This is unacceptable and throws doubt, in my view, that the councillors' vote should stand as they voted without all the relevant information being available including the full financial implications with the officer present being unable to give sufficient information regarding the council's ability to meet their future liability for this scheme or where any required funds will be provided from within the budget.

I would also highlight that a vote was taken in January 2020 by East Lothian Council Cabinet, however, this was out with their terms of reference, and therefore they did not have the power to do so, as a scheme of this value should have been given the approval of the full council.

A further objection is the engineers who have been appointed to design the project were the authors of the Environmental Impact Assessment, I am not sure where else this would be allowed to happen in the private or public sector. The engineers ruled out all alternatives to the current scheme during the options appraisal. This in effect meant that no public scrutiny or debate took place as none of the alternatives were made available to the community. I would also state that I do not believe that there has been sufficient challenge or scrutiny of the consultants and engineer as when I asked the question about who was qualified within the council to oversee this project at the open days in June not one person could give me a response other than the Designer and Consultants would be advising the council. This demonstrates the complete lack of

independence throughout this process and further concern about the openness and transparency at all levels of this proposed scheme.

The plans as submitted are not clear on the fate of the trees affected by the scheme. The benefit of trees to our environment are well documented. It is unacceptable that so many mature trees will be lost with the resultant impact and as noted above adding to the climate emergency we are experiencing.

I have only latterly become aware of this proposed scheme through community activism rather than the efforts of East Lothian Council, my elected representatives of the engineers and consultants. The public consultation last year was not open for sufficient time to let all those with a legitimate interest view the plans. The exhibition itself showed drawings which were not to scale, bridges as they would look during a 1:200 year flood and not an everyday view. The drawings are also misleading in terms of height. I would also point out that the exhibition was not disability friendly [REDACTED] [REDACTED] unable to view the boards from [REDACTED] wheelchair limiting [REDACTED] ability to participate in the consultation. I believe it is incumbent on East Lothian Council, the consultants and engineers to ensure that the whole community can access the information. My objection is that I do not believe in this process this has happened with those who are not computer literate or who suffer a physical or mental impairment potentially excluded from participating in this matter.

### **Multiple benefits and active travel**

My first objection to the proposals is the ramps used to provide access to the bridges. [REDACTED] [REDACTED] to access these bridges would rely on someone else to be pushing [REDACTED] in a wheelchair. The extra effort this will involve will prohibit people [REDACTED] [REDACTED] from using these bridges [REDACTED] someone to do all the extra walking not to mention the physical exertion it would require. The height of the bridges is excessive, and the images provided at the June consultation only showed a view where there had been a significant flooding event which was not accurate and did not allow the public to question the consultants.

The new bridge at Goose Green does not add anything to the flood protection scheme and I, from my own conversations family and friends, can see no local demand for this additional bridge and believe it takes away from the natural beauty of the area as it is, although the current proposed scheme will by default destroy the beauty of our river, destroy wildlife habitats and the biodiversity of this area.

The inclusion of the Musselburgh Active Toun (MAT) proposals does not contribute to flood prevention, and I would argue that the excessive width of the paths will create the need to narrow the river which commonsense would show means any flood water has less space and could actually increase the risk of flooding in the area. Based on my understanding of planning regulations these should be subject to planning permission, however, the flood scheme seems to have conferred permission. I do not believe that

the information published clearly shows which parts of the MAT will require planning and which will bypass this as included in the flood scheme. Indeed there seems to be an awful lot of confusion about what is actually currently included in this current phase of the project making it harder for residents to understand the scheme.

The inclusion of MAT ignores the views of many who do not support the extensive paths proposed. As a [REDACTED] resident I am familiar with Musselburgh Lagoons, Goose Green, Eskside and the sea front and believe the existing paths are sufficient for the current level of travel by walkers and cyclists. The unprecedented level of new housing in the area has not seen a significant increase in foot or cycle travel, the same cannot be said of the road network which is under significant pressure which will only be added to by the proposed scheme. I would also highlight that these plans have been extended and developed beyond the scope of the original consultation and discussions.

I am studying [REDACTED] at the [REDACTED]. A large part of this course is considering sustainable tourism to allow visitors to enjoy the natural heritage and environment with minimal impact. After [REDACTED] years of study I am struck at how much this proposed flood prevention scheme is behind so many other public bodies and international organisations who are all working to preserve our environment and climates by working with nature, learning the lessons of the past through archaeology and history and moving away from purely man made solutions. It is disappointing that the consultants appointed and East Lothian Council are so disconnected with the movement to engage with and respect nature when designing this proposed scheme.

The final element is the cost of the MAT with no figures have been published to show the cost of the scheme. The cost to East Lothian Council and therefore all residents of East Lothian have never been openly discussed to allow open and informed debate by residents.

### **General amenity, health, and well-being**

I have outlined my concerns above regarding the loss of local amenities many of which are Musselburgh Common Good Land. The proposal shows the extent of the loss of these to the community and the loss of these should be compensated as stated above. I am not alone in enjoying these with innumerable residents and visitors visiting each day. The proposed works mean that there will be no alternative for people to enjoy the outdoors and the river with the inevitable impact on their physical and mental wellbeing.

I would also object on the grounds that the River Esk is a site of significant historical significance. [The Battle of Pinkie Cleugh](#) was fought on the River Esk on the 10<sup>th</sup> of September 1547 during the war of rough wooing and was the last pitched battle in Scottish history. The battle ended in defeat for the Scots with around 6,000 being killed. This creates an element of history and the roman bridge which as the name suggests has had a bridge of some form there since the roman era when there was a roman fort an Inveresk and is still important in the yearly festival where the horses cross the river.

It is estimated that the project construction will take a minimum of five years causing major disruption. [REDACTED] I am extremely concerned at the increased time it could take [REDACTED] to travel [REDACTED] in an emergency, [REDACTED] [REDACTED] to medical appointments or for essential shopping. The increase in traffic within Musselburgh should not be underestimated causing danger to life if emergency services are unable to get through traffic on an already congested High Street which also has many more restrictions due to the change to bus stops and cycle lanes.

[REDACTED] social care workers many of whom rely on cars to travel to clients from their own homes or as part of their daily schedule. The increase in traffic and disruption to movement in Musselburgh is likely to have a significant impact on this sector and it is vulnerable people who could be left without the service they are entitled to expect as part of their care package. I am also extremely concerned about the additional stress and worry this will cause to social care workers and other essential workers if they are unable to travel safely and easily to where they are needed.

The recent pile works at Mall Avenue were extremely disruptive and I am concerned about the impact this work will have on surrounding properties in all the affected areas including those of my family and the damage this could cause due to the level of vibrations during the construction phase which are considerable. The project will take at least 5 years to build. It will be a major cause of disruption.

The figures quoted regarding the number of properties which will be protected by the scheme vary greatly. This information should be clear and transparent and clearly evidenced. I have not seen any evidence of the impact of this scheme on those at risk of flooding in a 1 in 200-year event and the proposals seem excessive. It is also widely acknowledged that there has been no flooding on the beach or Fisherow Links in living memory or historically.

Knowledge and methods are continually evolving, the project team themselves seem to be stating that there is no high degree of danger in the next 50 years from the information gleaned from the open days at Eskmills. It would seem prudent to desist from spending exorbitant sums of money now without understanding and exploring sustainable alternatives which will protect our community, our wildlife, habitats and our river and seashore together with our local e for future generation rather than crumbling concrete which is not maintained and would become a danger.

Recent flooding in Musselburgh appears to be connected to inadequate drains and sewers. Many of the issues with flooding have arisen since the building of new homes in Musselburgh, Wallyford and Whitecraig has grown exponentially. The building of the current proposed scheme will prevent water escaping to the river and there does not appear to be adequate provision for future maintenance of any measures proposed. [REDACTED] [REDACTED] asked this question at the open days in June 2023 and was advised that it was a matter for East Lothian Council who would be responsible for all maintenance costs on completion of the project. No figures have ever been produced for this.



Please acknowledge receipt of my letter of objection, in writing. Please advise me of next steps, and timescales.

Yours Faithfully,

A solid black rectangular redaction box covering the signature area.

**Subject:** (0459) Objections - Musselburgh Flood Protection Scheme  
**Sent:** 23/04/2024, 23:23:54  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections  
**Attachments:** [REDACTED] - [Objections april 24.docx.pdf](#)

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** [REDACTED]

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**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.



23rd April 2024

Service Manager – Governance Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

To whom it may concern

I am writing to object to the recently published Musselburgh Flood Protection Scheme.

I am an interested party given I am the owner of [REDACTED] which [REDACTED] to the [REDACTED] of my property [REDACTED]. As such I have a **right of access directly to the beach** [REDACTED] which is impacted by the construction of a seawall by the flood prevention Scheme.

I have a number of concerns over security and privacy issues affecting my property and arising from the Scheme, including objections specifically due to public access to the land [REDACTED].

**OBJECTIONS:**

1. I object to the unclear information around the use of the proposed 5m gap between [REDACTED]. [REDACTED] I need complete clarity on the use, ownership and maintenance of this land before works are agreed to.
2. I object to any disruption or impact on [REDACTED].
3. I object to privacy and security issues arising from a [REDACTED].
4. I object to any loss of access to the beach from my [REDACTED] and will seek compensation if this is the case.
5. I object that there have been no alternative solutions discussed or presented to me.
6. I object to the premature nature of the Scheme and ask for a **pause now**, for alternative solutions to be presented and discussed.
7. I object to the use of higher climate change scenarios.
8. I object to the lack of information on ongoing maintenance requirements of the scheme.

Please acknowledge receipt of my letter of objection in writing. Please advise me of next steps, and timescales. Please note that I would like communication to be via email or post.

Yours [REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

12<sup>th</sup> April 2024

Carlo Grilli  
Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA  
[REDACTED]

Dear Mr Grilli

I am writing to object to the recently published Musselburgh Flood Protection Scheme (MFPS).

While I am not directly affected by the scheme in that we live [REDACTED] behind the river my property will be directly affected during the 5-year construction period. The construction will be a major cause of disruption to the whole of Musselburgh. In addition, there will be pile-driving all along the river. This will cause a huge level of noise pollution and as I work from home this will impact me directly. Also, [REDACTED] [REDACTED] and the “invisible” damage that the pile-driving and construction in general may cause to my property is of great concern.

We as a family use the riverside, beach and surrounding areas on a daily basis to walk our dogs and as part of our mental wellness to get out and about in nature.

My [REDACTED] in the river every year and part of our decision to move to Musselburgh four years ago was because of this amenity.

As a local resident I do not agree to the proposed amount of public expenditure on the Musselburgh Flood Scheme, given the economic situation we are currently living in there are surely more pertinent areas for this money to be spent on.

I object to the published scheme because:

1. Not enough research, time or inclusion has been made for nature based solutions. Very little, if any at all, of the proposed scheme includes any nature based solutions. The MFPS does not offer alternative scenarios. It is tied to a 1:200 year +climate change event. Scottish Government guidance says that a range of scenarios should be

included. How can the Council judge what is necessary protection without being given a range of options?

East Lothian Council has commissioned a report on the coast from Dynamic Coast, but this is not yet available publicly – why and how is the Council making a decision without being open about all the evidence?

Local residents have asked to see the data underpinning the scientific calculations of the project team, but these requests have been ignored. What is the reason for the lack of transparency?

The project team say they have adjusted flood defence heights in response to local feedback. This amounts to fitting the science around the preferred outcome, rather than science/data leading to a properly calculated outcome. This makes no sense.

The last major flood in Musselburgh was in 1948. Climate change may mean there is increased risk of flooding in future, but there are communities at much greater and more immediate risk – Dumfries, Haddington, Perthshire etc. Scarce resources should be applied in order of need.

The Council was informed that Natural Flood Management (NFM) should be restricted to 3 interventions (use of 2 small reservoirs in the Pentlands, and a tree-catcher in Dalkeith Country Park). NFM could include a whole range of techniques to slow the flow of the river throughout the catchments, and to encourage the natural dune system along the coast. The fact these were discounted at the start is wrong and the situation is made worse by the exclusion of NFM decided upon in October.

The Council halted inclusion of NFM on the advice of the project team in October 2023. The evidence to support this was a report on the Eddleston Water project. That report is flawed, and the science behind the report was presented to the Council in a misleading way. NFM can and should take centre-stage in flood protection.

All the indications are that the use of NFM, nature-based solutions and a flood resilience (rather than prevention) approach are preferred over building flood walls. Even in massive river catchments like the Severn, these approaches are being discussed and trialled. The flood walls in Brechin (built/renewed 2015) recently failed. The flood gates in Perth recently failed. Man-made interventions cannot prevent flooding downstream – we need to do more upstream to slow/store the water so it doesn't rush down through the town.

The Scottish Government is heading towards NFM. On 23 December 2023, they announced “The Scottish Government recognises the importance of natural flood management (NFM) measures in reducing, slowing or otherwise managing flood waters across catchments and along the coast while also delivering multiple environmental benefits.” Why is ELC not in step with the Scottish Government?

2. Secondly, I object to the published scheme on the basis of cost. The scheme is currently costed at £132m in total, including £53m for the flood protection part. It would appear that there are no cost breakdowns in the public domain. The Council has been told the cost is likely to rise. How can the Council have voted this through with so little information? Why has no cap been put on the cost?

As at December 2023 it is my understanding that £4million has been spent on design and consultations against a decreasing budget available for core Council services such as care for the elderly, essential community health and wellbeing amenities: libraries, leisure and culture (e.g. Brunton Hall repairs). It would appear that the budget/spending priorities of the Council are wrong.

The Scottish Government & COSLA working group on flooding has recognised the model of uncapped funding (known as Cycle 1) allows project consultants/developers to expand flood schemes into much larger, and more costly, projects. The escalating costs of this project should be scrutinised and capped to prevent further inflation of project and costs.

The Council has been told that if they do not secure the Cycle 1 funding, they will get nothing. But this is not true, there will be funding in Cycle 2, which should be onstream after April 2024, and Musselburgh would be eligible.

3. Thirdly, I would question the transparency and process of the scheme. The engineers appointed to design the project have also been allowed to write the Environmental Impact Assessment (EIA). They carried out an options appraisal that ruled out all alternatives to the current scheme, without those options being made available for public scrutiny or debate. Throughout the scheme the consultants and engineers have not been subject to challenge or adequate scrutiny. On 23 January 2024, the Council agreed to the scheme progressing, even though they had not had sight of the full EIA, only a 'non-technical summary'.

In January 2020, East Lothian Council cabinet voted through the preferred scheme. Given the value of the scheme, this should have been approved by the full Council. The Cabinet did not have the power to vote on a scheme of this magnitude.

Local residents have tried to engage with their Councillors, but I am told that letters and emails that were responded to were sent to the Project team to provide the response. If challenged, the Project team advise they are taking instruction from the Council. The lines between the Council and the project team are totally blurred.

It is also my understanding that many people have sent letters and emails and received no response at all.

4. The scheme has become entwined with the Musselburgh Active Toun (MAT) proposals. However, the cost of the MAT scheme is unknown and is likely to require a 30% contribution from ELC, which has never been openly discussed. MAT proposals do not contribute to flood protection. Planning permission should be required for

these paths and bridges, but the flood scheme has deemed permission. It is not clear which parts of the MAT will bypass planning due to being included in the flood scheme. The proposed new Goose Green bridge does not add flood protection to the town. The MAT proposals included in the scheme are now much grander than those originally discussed and consulted upon

5. The project will take at least 5 years to build. It will be a major cause of disruption. There will be pile-driving all along the river. There are many historic properties in the centre of the town at risk of damage from vibration, not to mention privately owned homes. There is likely to be a loss in capital value to our homes because of the work. I would also insist on an independent survey on affected properties prior to work starting that is paid for by the scheme. Should any damage be caused by the works I would again insist that this is the responsibility of the scheme.

The banks of the Esk and Fisherrow Links are Common Good land, and any interruption to their use by the community should be compensated. Hundreds of people enjoy these amenities every day, where will we go to benefit from being in nature and by water? As stated previously we as a family use the river bank on a daily basis and having this amenity taken away should be compensated for by ELC.

Is it clear how many properties will be included as being 'protected' by the scheme? The number has risen and is variable on numerous documents from around 1,200 to 3,000 to 3,400. What is the truth? Where is the robust evidence? To achieve a viable amount of 'multiple benefits' there has to be a high number of properties protected and this scheme seems led by that consideration rather than by the actual risk.

Please acknowledge receipt of my letter of objection, in writing and please advise me of the next steps and timescales.

Yours sincerely

████████████████████

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

12<sup>th</sup> April 2024

Carlo Grilli  
Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA  
[REDACTED]

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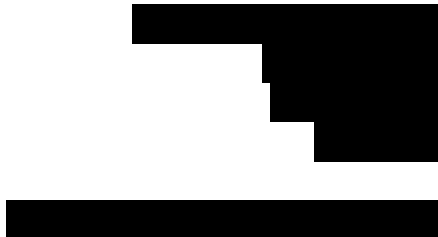
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Yours sincerely

████████████████████




23rd April 2024

Carlo Grilli  
Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

Dear Sir

I am writing to object to the recently published Musselburgh Flood Protection Scheme (MFPS). I am a resident living in Musselburgh who regularly uses the river, seashore and lagoons all of which are subject to these proposals. in the vicinity of the proposed works to the river and the seashore. These spaces are all valuable to me as a resident for my physical and mental wellbeing. My aunt and grandmother both live in  and will be adversely affected by these proposals not just from a loss of amenity but suffering from increased traffic, increased disturbance. This scheme I believe will have an impact on my family's ability to support them with the increased traffic in Musselburgh making it harder to get to them quickly in an emergency or take them for key medical appointments and essential shopping.

I have spent time considering the proposals and also discussing this at length with my family and there are several reasons why I object to the Musselburgh Flood Prevention scheme shown below. I am part of the future generations who will be left with the legacy of this scheme and I feel it is important that I share my objections as I am concerned at what will be lost forever if this goes ahead but also the impact on our climate if we lose so much of our biodiversity and wildlife as a result of these proposals.

I object to the published scheme because:

**Cost**

The scheme is currently costed at £132m in total, including £53m for the flood protection element of this. I can find no details which indicate that these costs are final, or that the chosen contractor has agreed contractual terms which prevent costs rising or has penalties in the event of any breach of contract by them for any element whether it be financial, construction or health and safety as examples. This is a concern at a time when council services are being cut and in effect from the information available to me the final council costs are unquantified.

It is incumbent on East Lothian Council in its entirety to ensure any contractual terms protect the interests of its constituents whether it be financial or otherwise and I have unfortunately failed to find any evidence that East Lothian Council have fulfilled this obligation.

I understand that £4m, from the information available to me, had been spent by December 2023 on design and consultations. This is a particular concern when we are consistently seeing a decreasing budget available for core Council services such as social care for the vulnerable and elderly within our community (which would directly impact my mother and ultimately my family if she is not properly cared for due to budget cuts), essential community health and wellbeing amenities: libraries, leisure, and culture. Within Musselburgh we have already seen a significant impact and I would highlight as an example, the closure of the Brunton Hall Theatre and the loss of the café within this building which was used by many including myself due to its proximity to public transport and disabled parking.

I believe that the scheme in its current form highlights that the budget and spending priorities for East Lothian Council do not match the needs of East Lothian Residents and with the current uncapped costs places an unnecessary financial burden on myself and my fellow residents within East Lothian. It is incumbent on East Lothian Council to demonstrate that within this scheme they have met this obligation.

Having researched further and from council meetings online it appears that East Lothian Councillors have voted for the scheme to progress on a false premise that if funding is not secured in Cycle 1 then the opportunity will be lost, however, from the information available to me it would appear that funding will be available in Cycle 2 which Musselburgh will qualify for.

The Scottish Government & COSLA working group on flooding has recognised the model of uncapped funding (known as Cycle 1) allows project consultants/developers to expand flood schemes into much larger, and more costly, projects. The escalating costs of this project should be scrutinised and capped to prevent further inflation of project and costs.

Musselburgh has been highlighted as the priority; however, recent reports suggest that the shore at Prestonpans to Port Seton is at greater risk and it is well documented that Haddington has a significant flood risk. I believe that East Lothian Councillors have made costs decisions based on, at best, incomplete information which does not make the best use of financial resources within East Lothian to protect the homes and

businesses of areas which are from the information available to me considered more vulnerable than Musselburgh at this time.

One question which remains unanswered, and I cannot find any details for is the ongoing maintenance costs of this scheme which are significant I can only presume, without proof to the contrary, these will be significant, however, there appears to be no future planning for this and as noted earlier core council services are being reduced and East Lothian Residents should not suffer further for a scheme with no clear sight of data on additional costs. There are many examples, in my view, of the failure of East Lothian Council to carry out routine maintenance in the county under their current financial position and the burden the scheme in its current form will bring is unprecedented with no clear plan of what this will involve from the questions I have asked or the evidence I have seen.

The loss of use of the Riverside, Seashore, Fisherow Links and the lagoons which has a direct impact for myself I believe will require compensation to be paid to myself and many others. In addition, I believe the works will have a significant impact on the value of my home which I would fully expect to be compensated for under the Flood Risk Management (Scotland) Act 2009. The scale of the works will severely impact our enjoyment of our family home due to the noise, dirt and pollution due to the construction in Musselburgh most specifically at Pinkie School and the Lagoons. I will also lose the use of the river, seashore and Fisherow links during the construction phase all of which are important.

I do not believe that any consideration appears to have been given to the impact on the more vulnerable members of our communities for whom this will great a great deal of stress and anxiety and those who care for them. I am sure I am not the only carer impacted in this way.

New Street is already heavily congested and well used by motorists, cyclists, and walkers and at times it is difficult for cars to travel along this street. The addition of construction traffic including large lorries, will bring a huge amount of congestion to New Street, Eskside, Mall Avenue as examples with many more routes impacted. I fear as stated elsewhere in this letter this will cause difficulties and impact my ability to support them on a day to day basis or reach them in an emergency,

I cannot stress strongly enough the wider impact this will have in our community if people cannot travel with minimum disruption due to the proposed flood scheme and associated works..

I have mentioned my concern about council budgets being under pressure for essential care. My grandmother relies heavily on her carers to allow her to live at home as independently as possible. It is extremely worrying to me that she and many others in her position could be made to suffer if provision is reduced due to pressure on budgets while money is spent without due diligence, or a true understanding of the cost being committed to. East Lothian have a duty of care to all vulnerable groups which includes children and adults to ensure the funds available to them are spent in the best interests

of East Lothian and I strongly believe that this is not the case with the current proposals and as stated above it is incumbent on the local authority to demonstrate good stewardship and governance of public money for the benefit of the communities they serve.

### **Science/data**

The MFPS does not offer alternative scenarios. It is tied to a 1:200-year climate change event. Scottish Government guidance says that a range of scenarios should be included. I do not believe that East Lothian Council have been given a range of options to judge what is necessary protection leading to potentially incorrect judgements being made by paid and elected officials. The figures provided by SEPA are predictions but by no means a certainty, yet the current proposals appear to take the view that these figures are a certainty.

East Lothian Council has commissioned a report on the coast from Dynamic Coast, which has been reported on in the press ([Beach in East Lothian suffered five years of damage in two days during storm - Edinburgh Live](#)). This report highlights that the planned defences will not work as they are not designed to deal with coastal erosion. It is inconceivable that a decision was made in January without this report being available particularly as it highlights the shortcomings of the current proposals in particular regard to the seashore. There are several highly publicised nature-based solutions already in place within the Forth estuary yet none of these, to the best of my knowledge, seem to have been considered or included in the consultations prior to the current scheme being developed which I believe is a major failing of East Lothian Council in its entirety and falls far short of the governance and diligence we are entitled to expect from appointed staff and elected officials.

I am aware that many residents have asked to see the data underpinning the scientific calculations of the project team, but these requests have been ignored. This concerns me greatly and I would like to be made aware of the reason for this as it does not seem unreasonable for residents to have access to this key information to allow them to assess if they feel the scheme meets the needs of their hometown.

The project team say they have adjusted flood defence heights in response to local feedback. From my own observations this amounts to fitting the science around the preferred outcome, rather than science/data leading to a properly calculated outcome. This makes no sense. I have spent considerable time reviewing the plans on the website with my family and I remain unable to identify the height of the walls proposed, however, from discussions I am aware of it will be hard for someone like my mother who uses a wheelchair or wheeled walker when outside her home to see anything other than the wall along the river. I would also point out that the ramps proposed will be extremely difficult for my mother to use with her walker or for myself or any other family member to push her up in her wheelchair. Our local river is an important amenity for many and being deprived of the opportunity to enjoy this will have an impact on the physical and mental wellbeing of many of my neighbours and fellow residents who enjoy spending time here year-round.

Climate change may mean there is increased risk of flooding in future, but there are communities at much greater and more immediate risk. As I mentioned above Prestonpans, Cockenzie, Port Seton more locally and within Scotland Dumfries, Perthshire etc all seem to be at a greater risk. The damage suffered in North Berwick to the harbour more recently springs to mind as another example of why priorities should be reevaluated by East Lothian Council and the Scottish Government to ensure public funds are spent where the need is greatest, and a plan should be in place for our county.

I understand that East Lothian Council were informed that Natural Flood Management (NFM) should be restricted to three interventions (use of 2 small reservoirs in the Pentlands, and a tree-catcher in Dalkeith Country Park). NFM could include an entire range of techniques to slow the flow of the river throughout the catchments, and to encourage the natural dune system along the coast. I believe it is a huge misjudgement that these were discounted at the start is wrong and the situation is made worse by the exclusion of NFM decided upon in October on the recommendation of Jacobs and backed by the elected councillors.

From my research I am concerned that the evidence presented to our elected officials in October was incorrect and the decision was also influenced by the way this information was presented. NFM, I believe offer longer term benefits to our local environment, those further upstream and offer a more sustainable way to address the flooding risk within Musselburgh especially in view of the climate emergency spoken about by East Lothian Council. I passionately believe that NFM solutions should be central to any scheme taken forward by East Lothian Council.

My sister is studying Marine and Coastal Tourism and I have found it extremely concerning listening to her and discussing the proposed scheme and its omission of nature based solutions. I have found it interesting to learn about the work of Restoration Forth from her and the impact from the reintroduction of oysters and sea grass meadows. I cannot understand why more consideration and importance has not been given to these opportunities to work with rather than against our environment.

There are several examples where man-made flood schemes have failed, two of which were here in Scotland. The impact in Brechin of the flood walls failing was highly publicised as was the failing of floodgates in Perth. These evidence that man-made solutions do not prevent downstream flooding. Action is required upstream to ensure the flow of water is slowed or indeed excess water stored so it does not rush downstream causing flooding.

More recently we have seen evidence that the Scottish Government is heading towards NFM with [the Minister stating](#) "The Scottish Government recognizes the importance of natural flood management (NFM) measures in reducing, slowing or otherwise managing flood waters across catchments and along the coast while also delivering multiple environmental benefits." East Lothian Council have failed to give any sincere consideration to NFM to the detriment in my view of biodiversity within the River Esk



and the shoreline at the Forth Estuary. This is a travesty for future generations who will face a bigger battle with climate change without the help of our established trees and wildlife to maintain our environment.

My last point is around the use of concrete to build flood defence. The level of emissions produced in the manufacture of concrete are well documented and, in a report, released by Princeton University in 2020 stated that the manufacture of concrete creates four billion tonnes of carbon dioxide worldwide each year. The level of concrete shown in the outline plans is staggering, together with the impact of the construction itself, additional traffic in Musselburgh and surrounding areas and the loss of trees and other biodiversity within the area it could be argued that the proposed flood defences will do more to add to the climate emergency increasing the risk of flooding whereas with NFM there is an opportunity to reduce the risk of rare flood events in Musselburgh while working with rather than against nature as has been shown to work in many other countries recently.

As a regular user of the Lagoons it is easy to see that concrete has a limited life, and while I am aware of the inclusion of the repair of these walls in the scheme I also object to what is proposed. This is an area rich in biodiversity and only now recovering from the year long works to the last two lagoons. I have lived this area all my life and can remember how these looked when they were ash lagoons where we as children played. I have watched as nature itself took on a large role in restoring balance to this area. I am happy to acknowledge the care taken with this and look forward over the coming years to see the wildlife and biodiversity recover and evolve. The proposal as they stand will have a huge impact on the efforts already made by our local Ranger service and Scottish Power in paying for these works as part of their contract and in my view further adding to the climate emergency we are facing.

### **Transparency and process**

My first concern around the lack of transparency is the lack of engagement from our elected representatives to understand the breadth of feeling among residents. There are several documented examples of constituents trying to interact with their elected representatives only to find that the project team were responding to them. This is unacceptable and I believe shows the lack of independence of East Lothian Council and the project team. It is entirely reasonable to expect that elected representatives are speaking for their constituents and respond in a timely and professional manner.

The documents have in the main been published online making it difficult to view the latest plans in their entirety. Many family members have struggled with this format and with help from myself and other would have found it hard to understand what was proposed. I believe that this lack of transparency and availability of key information to all members of our community is another element of a flawed process which is designed to disenfranchise many sectors of the Musselburgh community. I would also highlight the lack of transparency to East Lothian residents who will be, by default,

funding any potential scheme and its ongoing maintenance yet have been, to the best of my knowledge provided with minimal information.

It is disappointing that we as lay people are left spending several hours trying to view and understand the latest plans. This lack of transparency was also evident on 23<sup>rd</sup> January 2024 when agreement to the scheme progressing was given despite councillors having insufficient information an example being the Environmental Impact Assessment (EIA) which they did not have full sight of but voted through on the strength of only a non-technical summary. This is unacceptable and throws doubt, in my view, that the councillors' vote should stand as they voted without all the relevant information being available including the full financial implications with the officer present being unable to give sufficient information regarding the council's ability to meet their future liability for this scheme or where any required funds will be provided from within the budget.

I would also highlight that a vote was taken in January 2020 by East Lothian Council Cabinet, however, this was out with their terms of reference, and therefore they did not have the power to do so, as a scheme of this value should have been given the approval of the full council.

A further objection is the engineers who have been appointed to design the project were the authors of the Environmental Impact Assessment, I am not sure where else this would be allowed to happen in the private or public sector. The engineers ruled out all alternatives to the current scheme during the options appraisal. This in effect meant that no public scrutiny or debate took place as none of the alternatives were made available to the community. I would also state that I do not believe that there has been sufficient challenge or scrutiny of the consultants and engineer as when I asked the question about who was qualified within the council to oversee this project at the open days in June not one person could give me a response other than the Designer and Consultants would be advising the council. This demonstrates the complete lack of independence throughout this process and further concern about the openness and transparency at all levels of this proposed scheme.

The plans as submitted are not clear on the fate of the trees affected by the scheme. The benefit of trees to our environment are well documented. It is unacceptable that so many mature trees will be lost with the resultant impact and as noted above adding to the climate emergency we are experiencing.

I have only latterly become aware of this proposed scheme through community activism rather than the efforts of East Lothian Council, my elected representatives of the engineers and consultants. The public consultation last year was not open for sufficient time to let all those with a legitimate interest view the plans. The exhibition itself showed drawings which were not to scale, bridges as they would look during a 1:200 year flood and not an everyday view. The drawings are also misleading in terms of height. I would also point out that the exhibition was not disability friendly as my mother was unable to view the boards from her wheelchair limiting her ability to participate in the consultation. I believe it is incumbent on East Lothian Council, the

consultants and engineers to ensure that the whole community can access the information. My objection is that I do not believe in this process this has happened with those who are not computer literate or who suffer a physical or mental impairment potentially excluded from participating in this matter.

### **Multiple benefits and active travel**

My first objection to the proposals is the ramps used to provide access to the bridges. I have limited mobility and to access these bridges would rely on someone else to be pushing me in a wheelchair. The extra effort this will involve will prohibit people like myself from using these bridges as I could not ask someone to do all the extra walking not to mention the physical exertion it would require. The height of the bridges is excessive, and the images provided at the June consultation only showed a view where there had been a significant flooding event which was not accurate and did not allow the public to question the consultants.

The new bridge at Goose Green does not add anything to the flood protection scheme and I, from my own conversations family and friends, can see no local demand for this additional bridge and believe it takes away from the natural beauty of the area as it is, although the current proposed scheme will by default destroy the beauty of our river, destroy wildlife habitats and the biodiversity of this area.

The inclusion of the Musselburgh Active Toun (MAT) proposals does not contribute to flood prevention, and I would argue that the excessive width of the paths will create the need to narrow the river which commonsense would show means any flood water has less space and could actually increase the risk of flooding in the area. Based on my understanding of planning regulations these should be subject to planning permission, however, the flood scheme seems to have conferred permission. I do not believe that the information published clearly shows which parts of the MAT will require planning and which will bypass this as included in the flood scheme. Indeed there seems to be an awful lot of confusion about what is actually currently included in this current phase of the project making it harder for residents to understand the scheme.

The inclusion of MAT ignores the views of many who do not support the extensive paths proposed. As a lifelong resident I am familiar with Musselburgh Lagoons, Goose Green, Eskside and the sea front and believe the existing paths are sufficient for the current level of travel by walkers and cyclists. The unprecedented level of new housing in the area has not seen a significant increase in foot or cycle travel, the same cannot be said of the road network which is under significant pressure which will only be added to by the proposed scheme. I would also highlight that these plans have been extended and developed beyond the scope of the original consultation and discussions.

A large part of my sisters university course is considering sustainable tourism to allow visitors to enjoy the natural heritage and environment with minimal impact. I am disappointed at how much this proposed flood prevention scheme is behind so many

other public bodies and international organisations who are all working to preserve our environment and climates by working with nature, learning the lessons of the past through archaeology and history and moving away from purely man made solutions. It is disappointing that the consultants appointed and East Lothian Council are so disconnected with the movement to engage with and respect nature when designing this proposed scheme.

The final element is the cost of the MAT with no figures have been published to show the cost of the scheme. The cost to East Lothian Council and therefore all residents of East Lothian have never been openly discussed to allow open and informed debate by residents.

### **General amenity, health, and well-being**

I have outlined my concerns above regarding the loss of local amenities many of which are Musselburgh Common Good Land. The proposal shows the extent of the loss of these to the community and the loss of these should be compensated as stated above. I am not alone in enjoying these with innumerable residents and visitors visiting each day. The proposed works mean that there will be no alternative for people to enjoy the outdoors and the river with the inevitable impact on their physical and mental wellbeing.

I would also object on the grounds that the River Esk is a site of significant historical significance. [The Battle of Pinkie Cleugh](#) was fought on the River Esk on the 10<sup>th</sup> of September 1547 during the war of rough wooing and was the last pitched battle in Scottish history. The battle ended in defeat for the Scots with around 6,000 being killed. This creates an element of history and the roman bridge which as the name suggests has had a bridge of some form there since the roman era when there was a roman fort an Inveresk and is still important in the yearly festival where the horses cross the river.

It is estimated that the project construction will take a minimum of five years causing major disruption. As primary carer for my mother and sister I am extremely concerned at the increased time it could take me to travel to them in an emergency, but, as mentioned above when I am taking them to medical appointments or for essential shopping. The increase in traffic within Musselburgh should not be underestimated causing danger to life if emergency services are unable to get through traffic on an already congested High Street which also has many more restrictions due to the change to bus stops and cycle lanes.

My grandmother is reliant on social care workers many of whom rely on cars to travel to clients from their own homes or as part of their daily schedule. The increase in traffic and disruption to movement in Musselburgh is likely to have a significant impact on this sector and it is vulnerable people who could be left without the service they are entitled to expect as part of their care package. I am also extremely concerned about the additional stress and worry this will cause to social care workers and other essential workers if they are unable to travel safely and easily to where they are needed.

The recent pile works at Mall Avenue were extremely disruptive and I am concerned about the impact this work will have on surrounding properties in all the affected areas including those of my family and the damage this could cause due to the level of vibrations during the construction phase which are considerable. The project will take at least 5 years to build. It will be a major cause of disruption.

The figures quoted regarding the number of properties which will be protected by the scheme vary greatly. This information should be clear and transparent and clearly evidenced. I have not seen any evidence of the impact of this scheme on those at risk of flooding in a 1 in 200-year event and the proposals seem excessive. It is also widely acknowledged that there has been no flooding on the beach or Fisherow Links in living memory or historically.

Knowledge and methods are continually evolving, the project team themselves seem to be stating that there is no high degree of danger in the next 50 years from the information gleaned from the open days at Eskmills. It would seem prudent to desist from spending exorbitant sums of money now without understanding and exploring sustainable alternatives which will protect our community, our wildlife, habitats and our river and seashore together with our local e for future generation rather than crumbling concrete which is not maintained and would become a danger.

Recent flooding in Musselburgh appears to be connected to inadequate drains and sewers. Many of the issues with flooding have arisen since the building of new homes in Musselburgh, Wallyford and Whitecraig has grown exponentially. The building of the current proposed scheme will prevent water escaping to the river and there does not appear to be adequate provision for future maintenance of any measures proposed. My daughter asked this question at the open days in June 2023 and was advised that it was a matter for East Lothian Council who would be responsible for all maintenance costs on completion of the project. No figures have ever been produced for this.

Please acknowledge receipt of my letter of objection, in writing. Please advise me of next steps, and timescales.

Yours Faithfully,



23/04/2024

Carlo Grilli

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

Dear Mr. Grilli,

I am writing to object to the recently published Musselburgh Flood Protection Scheme.

As a Musselburgh resident, I am concerned about the cost of the Flood Protection Scheme as a taxpayer as well as the disruption it will cause for getting around town to use services and shops and commuting to work. In addition to this, I have a keen interest in wildlife and I am very concerned about the impact that the scheme will have on the natural environment, which is important for residents' mental health and wellbeing as well as the birds and other wildlife which use the river and coast, for which it is internationally important.

I object because the Environmental Impact Assessment (EIA) Report that East Lothian Council has commissioned does not meet the necessary requirements set out in EIA guidance and does not allow East Lothian Council to fulfil its biodiversity duties. Specifically:

Inadequacy of the EIA Report's Ornithology Baseline

The results presented in the EIA Report from surveys of shoreline and coastal birds (the 'through the tide counts') are insufficiently detailed to adequately assess the impacts of the Scheme on these species. This failure is especially important because the Scheme is adjacent to, or in places actually within, the Firth of Forth Special Protection Area (SPA), the Firth of Forth Ramsar Site, the Firth of Forth Site of Special Scientific Interest (SSSI), and the Outer Firth and the St. Andrews Bay Complex SPA. These are internationally and nationally important designated sites for birds, and any assessment of impacts on these designations require must be informed by comprehensive robust and appropriately detailed baseline data. The EIA Report does not present such data.

It is therefore essential that baseline bird survey data are properly presented, specifically that the distribution and abundance of qualifying features of the SSSI, SPAs and Ramsar site at least are mapped to species level and their abundance shown for each survey area (notably through

the tide count survey areas), along with the key areas for roosting and foraging of those species. Without this information, the EIA lacks the necessary detail to enable consultees to judge whether or not the applicant's assessment of impacts from the Scheme is correct. Consultees cannot therefore also judge whether proposed mitigation measures are adequate, or whether the identification of residual impacts on birds can be relied upon. For all these reasons, the baseline survey data in the EIA in its current form is not fit for purpose. It needs to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report. As additional bird surveys are still being undertaken, the more detailed results requested can be published at the same time as these additional data (but all to the appropriate level of detail).

On top of this failure to present survey results to the required level of detail for such a sensitive area and for such important species, the desk study component of baseline data collection has also been inadequate. To accord with EIA guidance<sup>1</sup>, baseline bird data should comprise both survey results and relevant pre-existing data on bird species present, their national and local population trends, and insights into their relevant behaviour. The Firth of Forth has been the subject of intense ornithological study spanning several decades<sup>2</sup>, and it is reasonable to expect that this body of data would have been drawn upon for the EIA Report, not least given the sensitivity of the area and the need to design appropriate and effective mitigation measures for construction impacts and impacts over the 100 year operational life of the Scheme. The desk study data included in the EIA also fails to meet the requests from key stakeholders. Notably, for example, the East Lothian Biodiversity Office who requested in their Scoping Report (see ELC on 28th November 2023, EIA Appendix C3.2) that *'The field surveys should be informed by a data search from ... useful data (that) may be available from sources including the East Lothian Council Ranger Service, British Trust for Ornithology and Scottish Ornithologists' Club'*.

Starting with the Scottish Ornithologists' Club, the EIA fails to incorporate into its ornithology baseline any of the comprehensive pre-existing bird data that exists for the Scheme area, collected over several years by highly experienced local ornithologists, many with decades of expertise in the area's bird life. It would be expected, at the very least, that given EIA guidance<sup>3</sup> and to comply with the request from East Lothian Council's own Biodiversity officer that the EIA authors would have submitted a data request to the Local Bird Recorder of the Lothian Branch of the Scottish Ornithologists' Club (SOC) to obtain relevant bird records for the area impacted by the Scheme. This was not the case, and therefore the EIA ornithology baseline suffers by not having the detailed insights into species presence, abundance, distribution and behavioural patterns to adequately inform its assessment (including of cumulative impacts), mitigation design and proposals for enhancement. This is particularly the case for the assessments of impacts from the Scheme's construction compounds, the seawall improvement works, and the two sections of the Musselburgh Active Travel Network (ATN).

Moving on to obtaining desk study data from the British Trust for Ornithology (BTO), this key organisation administers a number of bird recording schemes, including the Wetland Bird Survey (WeBS), which cover this area. It is EIA good practice, as part of gathering desk study data for developments in coastal areas, to obtain and present WeBS results, alongside survey

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<sup>1</sup> See the Environmental Impact Assessment Handbook: Guidance for competent authorities, consultation bodies, and others involved in the Environmental Impact Assessment process in Scotland Version 5, April 2018. NatureScot and Historic Environment Scotland.

<sup>2</sup> E.g. Bryant, D. (1987) The Natural Environment of the Estuary and Firth of Forth. *Proceedings of the Royal Society of Edinburgh, Section B: Biological Sciences*, Volume 93, Issue 3-4, pp. 509 – 520 DOI: <https://doi.org/10.1017/S0269727000006916>

<sup>3</sup> For example, see C.6.3 and Box C. 6. Practice .1. in the reference cited in Footnote 1.

data. Bird surveys commissioned for EIAs are inevitably restricted to relatively short-term sample surveys, comprising snapshots of bird activity. The WeBS scheme and its predecessor have been running for decades and provide important long-term insights into species composition and abundance of waders and wildfowl of key sites, and long-term population trends. In particular, for large designated sites like the Firth of Forth SSSI/SPA/Ramsar, WeBS data are also essential to place local bird populations (i.e. the birds present in the Scheme area) in their wider Firth of Forth context, so that impacts from the Scheme, and cumulatively with other projects, can be adequately assessed. Whilst it is noted that in Section 7.3.3 of the EIA it states that the desk based assessment included data responses from organisations including the BTO, detailed WeBS data are not provided. The reference to WeBS data is limited to total species counts (in the EIA Section 7.5.6.1 'Desk-study and preliminary ecological appraisal'). This states:-

*'Data obtained during the desk-based assessment identified the potential presence of the following protected species within the study area:*

- *Wintering wetland birds: the BTO Wetland Bird Survey (WeBS) data for the five-year period from 2013/14 to 2017/18 identified a total of 70 species of wetland birds (which includes unidentified and hybrid species) within the Eastfield to Musselburgh WeBS sector. Of these 70 species, 55 were recorded in the winter months during this period. The five-year mean peak count of wetland birds within the Eastfield to Musselburgh WeBS sector is 4,878 individuals, with a five-year winter mean peak recorded as 5,259 individuals (see Appendix B7.4 for details).'*

Instead of these agglomerated count figures, the EIA Report should provide the species-specific WeBS data. Furthermore, and contrary to the Chapter's statement that details of WeBS data are provided in Appendix B7.4, there are no details provided on the WeBS data for the area in that Appendix. What is required for the EIA (and HRA) is a map of the WeBS count sector to compare with the survey areas used for the through the tide counts, and for the WeBS data to be tabulated by species, comparing abundance figures from the survey work. Neither are presented in the Biodiversity Chapter or any of the published EIA Report Appendices.

Lastly in relation to the WeBS data, the totals that are presented are out of date, being '*from 2013/14 to 2017/18*'. The desk study for the EIA should have obtained the most recent five-year dataset available, i.e. up to the 2022/2023 non-breeding season, to help inform the assessment.

The inclusion of detailed WeBS data is common practice in EIAs (and HRAs) for coastal developments, in particular where developments overlap or are in close proximity to internationally important sites designated for their bird interests. As already highlighted, without these details, it is not possible to contextualise or corroborate the survey data provided by the applicant. This and the wider omissions in desk study data need to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report.

#### Baseline Survey Accuracy

The bird survey data on which the Scheme's EIA Report depends appears to contain apparent anomalies, with some species noted that either have only very rarely ever been recorded locally and other species which may be mis-identified. The inclusion of these records undermines confidence in the reliability of bird (and other) survey work carried out for the EIA Report, and also in the rigour of the quality assurance processes that have been applied during the collection, processing and writing up of data used in the EIA Report. Specific examples include



records of Stone-curlew, Water Pipit, Twite breeding, “flyover” Wood Warbler, Whimbrel in November, a Kittiwake flying up the river Esk (Appendix 7.4). Based on over 60 years of data held by the SOC, these records require verification. The almost daily coverage by experienced birdwatchers over the survey period also points to other anomalies, such as occasions when a large count of Velvet Scoters is reported in the EIA Report at a time when only a Common Scoter flock was present. Such questions on the reliability of the survey data are critical, given the conservation importance of qualifying features of the Firth of Forth SSSI, SPAs and Ramsar sites and Outer Forth and St Andrews Bay Complex SPA in such close proximity (and in some areas, overlapping) with the Scheme. It also underscores the importance of consultation with bodies such as the SOC and BTO to ensure that pre-existing data for the Scheme area are obtained, adequately used to aid data validation and quality assurance, and properly integrated into baseline data.

One further concern over the baseline survey surveys is the validity of the ‘through the tide counts’ which coincided with the construction activity for the new lagoons between 2021 to June 2023. Given that the EIA Report acknowledges that construction traffic along the seawall will cause disturbance to birds (including qualifying features of the Firth of Forth SSSI, SPA and Ramsar site), evidently the results from these surveys were not representative whilst the lagoon construction was on-going. NatureScot guidance on bird surveys clearly highlights the principle that surveys should not take place where there is disturbance that may change the abundance, distribution or behaviour of birds within the survey area<sup>4</sup>. This precaution has not been followed therefore, and it further undermines the reliance that can be placed on a significant proportion of bird survey data used in the EIA Report.

It is understood however, that bird surveys are still being carried out, I therefore object until these un-impacted additional bird survey results are published as part of the submission of Further Environmental Information and HRA.

#### Failure to Identify and Assess Habitat Loss from the Scheme

The EIA Report attempts to identify and quantify the loss of habitats from the Scheme, to assess the significance of these losses, the mitigation that will be required and the resulting residual impacts and their significance.

However, it completely fails to identify the main habitat impact from the Scheme, namely the loss of shoreline and inter-tidal habitats over its 100-year operational life. These losses will occur as a direct result of the Scheme’s construction of hard defence structures along the coast where these are currently absent or limited, through what is known as ‘coastal squeeze’. This impact needs to be fully identified and assessed in the EIA Report, in particular the Scheme’s proposed hybrid wall structures at Work Sections 6 and 7 (impacting 325m and 290m of coastline respectively) and its concrete walls along Work Sections 8 and 9 (impacting 393m and 132m of coastline respectively) (see Table 4-2 ‘Summary of Scheme by work section’ in Section 4.4.1 Scheme Layout Overview, and Figures Appendix A41j to A41l in Appendix A of the EIA Report). The existence of this operational impact is not even mentioned in the EIA Report Biodiversity Chapter, let alone assessed, with only the most cursory mention given in 7.5.9.3 ‘General trends’. The EIA Report therefore does not meet its own commitment (in Section 3.6.2 ‘Future baseline’) to complete ‘*Where appropriate, an appraisal of the future baseline without*

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<sup>4</sup> Although relating to bird surveys for wind farms, the importance of avoiding construction disturbance that may affect survey results is made clear in Section 2.1.1 and Box 1 in NatureScot (2017) Recommended bird survey methods to inform impact assessment of onshore wind farms. March 2017, Version 2.

*the Scheme ... where feasible to allow for consideration of the operational impacts of the Scheme over its 100-year design-life'.*

This is of particular concern because these habitat losses will impact the qualifying features of the Firth of Forth SSSI, SPA or Ramsar Site (and the conservation objectives of the latter two designations).

The omission of this impact in the EIA Report must be rectified and the necessary modelling and full assessment of habitat loss from coastal squeeze be fully assessed and published as Further Environmental Information. The assessment of these habitat losses on the integrity of the Firth of Forth SPA and Ramsar Site must also be included in the HRA, to inform the compensation that will be required, if should a derogation case be accepted.

Given how important this impact is, it is also worth re-stating the Council's published Scheme objectives (EIA Report Chapter 4, Section 4.1 and Table B4 in Appendix B4) that include the following Environmental Objectives:-

- 1. That the Scheme will achieve as a minimum a neutral impact on the environment.*
- 2. To ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures.*
- 3. To ensure that the Scheme considers the impact of climate change and includes appropriate provisions to mitigate any impact.*
- 4. To ensure that the Scheme considers in full, and includes for any appropriate measures, to protect the Firth of Forth and its protected statuses.*

Clearly, these objectives cannot be achieved if the Scheme's impacts are not adequately identified, assessed, and mitigated and if mitigation or enhancement proposals (such as those in EIA Report Table 7.7) are not considered in terms of resilience to sea level rise and climate change.

In addition to failing to include operational habitat loss, the habitat loss figures that are currently included for construction and operational impacts lack clarity and consistency across the Biodiversity Chapter and Appendices. For example, the extent of temporary lost habitat given in Section 7.6.2.1.1 'Firth of Forth SPA and Ramsar' is given as 'approximately 2.14 ha' but the habitat breakdown figures only add up to 1.711 ha. Similarly in Section 7.6.3.1.1 'Firth of Forth SPA and Ramsar', the permanent loss of habitat from the Firth of Forth SPA and Ramsar is given as 4.3 ha, but again the figures for the habitats lost amount to just over 1.46 ha. This lack of clarity and inconsistencies in the EIA Report make it difficult for consultees to clearly understand the scale or location of the Scheme's habitat impacts. It is important that these losses are clarified, including in the HRA prior to its finalisation, and if necessary, through the submission of Further Environmental Information.

#### Failure to Appropriately Identify Plans and Projects to Consider for the Cumulative Impact Assessment

Section 7.3.9 'Cumulative effects' of the EIA Report identifies that 'A review of developments in the local area as listed on the East Lothian and Midlothian Council planning portals was conducted. The assessment focused on developments of any size within the working areas and those over 1 ha in size up to 5 km from the working areas in Musselburgh and the reservoirs. In

*addition, Grangemouth Flood Protection Scheme (GFPS) was also considered as part of the assessment, as requested by NatureScot during consultation for GFPS’.*

The cumulative assessment needs to encompass developments that have significant potential to impact key ecological receptors. The potential for cumulative/in combination impacts is determined by impact pathways, not by arbitrary thresholds such as development size or distance from the Scheme (neither of which have any regulatory basis or reflect CIEEM guidance)<sup>5</sup>. Movement of birds around the Firth of Forth SPA/Ramsar site have been relatively well studied, and this information should be referred to in order to help determine potential impact pathways, and thereby the plans and projects that need to be taken account of in the cumulative/in combination assessment. It is important that this impact/pathway/receptor approach is adopted in the HRA’s ‘in combination’ assessment, if made available to consultees, otherwise through the submission of Further Environmental Information.

### Repeated Lack of Evidence to Substantiate the Findings of the Impact Assessment

In order to comply with EIA guidance, it is essential that the assessment of impacts is supported by appropriate evidence. However, the EIA Report consistently fails to provide evidence to back up the assessments made on construction and operational impacts of the Scheme on birds.

The rare instance when evidence and published peer reviewed information is referenced in support of the assessment of impacts is for kingfisher (see section 7.6.2.3.4). Kingfisher is only a species of regional importance, yet the EIA Report’s assessments of impacts on internationally or nationally important bird species are repeatedly made without any reference to peer reviewed or other evidence, or even to standard NatureScot guidance (for example, in relation to disturbance, Goodship and Furness 2022<sup>6</sup>). A typical example of unsupported assertions is in Section 7.6.3.1.1 ‘Firth of Forth SPA and Ramsar’, which states ‘The remaining area to be lost within the SPA is comprised of habitat rarely used by qualifying species and therefore is considered unlikely to provide functional habitat’. There are no data presented to back up this assessment, since the EIA and its Appendices omit the necessary detail on the distribution and abundance of individual species.

This is a clear omission and weakness in the EIA Report, is contrary to guidance and good practice, and reduces the reliance that can be placed on the assessment or effectiveness of mitigation proposed. It also falls short of the robustness and detail of EIAs for other developments in the area<sup>7</sup>. Furthermore, East Lothian Council, who commissioned the EIA, has an actual duty to protect and enhance biodiversity. This duty cannot be adequately discharged without detailed baseline EIA (and HRA) bird data from which impacts on birds or other wildlife can be assessed, mitigation designed, and residual impacts identified.

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<sup>5</sup> Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. September 2018 Version 1.2 - Updated April 2022

<sup>6</sup> Goodship, N.M. and Furness, R.W. (2022) Disturbance Distances Review: An updated literature review of disturbance distances of selected bird species. NatureScot Research Report 1283.

<sup>7</sup> See, for example, the inter-tidal and near-shore bird data presented in Appendix 6C: Intertidal and Near-shore Bird Surveys of the Inch Cape Onshore Transmission Works EIA report (ICOL, 2018b) at [OnShore-EIA-Appendix-6C-1of-2.pdf \(inchcapewind.com\)](#) and [OnShore-EIA-Appendix-6C-3of-4.pdf \(inchcapewind.com\)](#). Others include the EIAs for [SSE Seagreen 1A](#) and for the Cockenzie Combined Cycle Gas Turbine Power Station application.

It is also important to note that for the HRA the best available scientific evidence must be used, and the Council, given its Scheme objectives and biodiversity duties, must ensure that this is the case, being responsible for commissioning the EIA Report (and HRA).

### Repeated and Unsubstantiated Downplaying of Conservation Importance and Impacts in the Assessment

There are repeated instances in the EIA Report's Biodiversity Chapter where assessments of impacts on birds downplay (i) the value of their habitats - because it is stated they are already subject to disturbance, or (ii) the significance of disturbance to birds - because it is stated they will move elsewhere within the SPA, or (iii) impacts being insignificant - because the area of impact is small. These assertions are consistently unsubstantiated by evidence (as already highlighted above) and are a style of assessment more typical of commercial developers seeking to justify damaging protected sites. These assertions are inappropriate in those circumstances, but are totally inappropriate for Councils, given the legal and policy obligations they are under to protect and enhance biodiversity, notably the Nature Conservation (Scotland) Act 2004 and National Planning Framework 4 (NPF4). Furthermore, no reference is made to the fact that many wildfowl and wader populations in the Firth of Forth have already suffered long-term declines as a result of development impacts, disturbance and habitat loss<sup>8</sup>, and that approximately one third of the Firth of Forth SPA/Ramsar's qualifying species are in unfavourable conservation status (Protected Nature Sites ([sepa.org.uk](http://sepa.org.uk)), accessed 19.04.2024). The Councils around the Firth of Forth, together with the Scottish Government, NatureScot, businesses and local communities, need to be working together to ensure qualifying features of the SSSI, SPA and Ramsar site return to favourable conservation status.

Examples of the unsubstantiated downplaying of conservation importance of habitats or species, and of impacts are, for example, in Table 7-5 Summary of Baseline Conditions and Evaluation of Importance of Ecological Features, which includes the statement that 'The sand dunes within the study area are narrow and disturbed; therefore, it is considered they do not meet the SSSI designation criteria'. In Section 7.6.2.1.1 'Firth of Forth SPA and Ramsar', another unsubstantiated statement is made, 'The area temporarily lost during construction constitutes a narrow linear area adjacent to the coastline which experiences high levels of disturbance from public use. This area is not considered to be important habitat for qualifying interests of the Firth of Forth designated sites, in comparison to the large expanse of sand flats along the coastline and the lagoons at Levenhall Links'. There is, however, no evidence to back up these assertions, on factors such as prey availability, carrying capacity, exposure to disturbance, or any of the other influences that need to be considered in order to robustly assess these impacts. The same applies in the assessments made in Sections 7.6.3.1.1 Firth of Forth SPA and Ramsar, 7.6.3.1.2 Outer Firth of Forth and St Andrews Bay Complex SPA, and 7.6.3.1.3 Firth of Forth SSSI. These are sites of international and national importance for conservation, already under significant multiple pressures, and it is essential that assessments of impacts are evidence-based and robustly reasoned. This is not the case currently, and this must be rectified. It is therefore essential that the Council (or Scottish Ministers) exercise the right to request further evidence, through Further Environmental Information and in the finalised HRA, in accordance with EIA guidance (see for example, NatureScot and Historic Environment

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<sup>8</sup> e.g. McLusky, D., Bryant, D. and Elliott, M. (1992) The impact of land-claim on macrobenthos, fish and shorebirds on the Forth Estuary, eastern Scotland. *Aquatic Conservation: Marine and Freshwater Ecosystems* Volume 2, Issue 3, pp. 211-222, or Dwyer, R. (2010) Ecological and anthropogenic constraints on waterbirds of the Forth Estuary: population and behavioural responses to disturbance. *Environmental Science, Biology*.

Scotland (2018), referred to in Footnote 1, specifically Section D. 6), before confirming the Scheme.

#### Disturbance to Birds During the Scheme's Operational Phase

Related to the point of objection above on lack of evidence to support the assessments on international and national designations (in Sections 7.6.3.1.1, 7.6.3.1.2 and 7. 6.3.1.3), the EIA Report notes that:-

*'The improvements to the active traffic network (particularly along the seawall and at the proposed Goose Green Footbridge) may result in increased pedestrian and cyclist traffic, which may create increased operational disturbance to qualifying bird species'.*

Evidently the Council's EIA Report makes it clear that it is uncertain whether or not the ATN works will result in increased active travel, in which case how can the expenditure, additional risk of impacts on internationally and nationally important designated sites, and carbon footprint of constructing these two ATN elements of the Scheme be justified? Without strong independent evidence that there will be sufficient active travel benefits, these two elements need to be removed from the Scheme (not least as there are already footpaths and cycle paths along these sections of the Scheme coastline).

That objection aside, these EIA Report sections contain no evidence to support the assessments made operational disturbance, and as such they are unsupported conjecture. This needs to be rectified (including in the HRA), firstly by inclusion of clear evidence-based and quantified prediction of the level of increased activity as a result of the ATN path and Goose Green Foot Bridge construction, compared to present levels<sup>9</sup>, and secondly by ensuring the assessment of disturbance impacts on each qualifying species of the SPAs, Ramsar and SSSI are made on the basis of these predicted operational levels of activity, and supported by an appropriate level of detail and evidence.

Until such time as these are provided, I object to the Scheme.

#### Impacts on Recreational Amenity Over the Construction Period, Specifically Birdwatching

Musselburgh is one of the most visited birdwatching sites in Scotland (based on the number of referrals to the Musselburgh entry on the SOC's Where to Watch Birds in Scotland' mobile app), enjoyed by hundreds of visitors every year. This tourism and amenity value of the Scheme area for birdwatching is not given recognition in the EIA Report, and as a result there is insufficient attention given to mitigating disruption to this activity. This is significant because, as noted in EIA Report Section 4.7.3 'Sequencing of construction work', the Scheme's construction phase could take a period of five to ten years, imposing long-term damage to the area's use and reputation as an ornithology visitor attraction.

#### The Decision to Date by East Lothian Council Not To Publish the Draft HRA

No access has been provided to the current draft HRA for the Scheme. It would be greatly appreciated if the HRA could be made available by the Council, not least because, it would provide those with detailed local knowledge of the area's birds to provide useful feedback. In addition, in the meantime, it is respectfully suggested that the Council make a request to the SOC for relevant pre-existing bird data, and also to BTO, for species level and up-to-date WeBS

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<sup>9</sup> Presumably these estimates are available from the business case for use of public money on the Musselburgh Active Travel Network.

data, so both sets of information can be included in the HRA and used as evidence to contribute to a robust assessment of effects from the Scheme alone and in combination with other plans and projects.

Please acknowledge receipt of my letter of objection, in writing. Please also advise me of next steps, and timescales. Thank you very much.

Yours Faithfully,

A solid black rectangular redaction box covering the signature area.

**Subject:** (0464) Objection  
**Sent:** 23/04/2024, 23:59:58  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** [REDACTED]

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Tuesday 23/04/2024  
Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

Dear Sir / Legal Services

I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024. I have an interest in the land affected because [REDACTED] regularly ride their horses on the bridle path that will be destroyed by the construction of the debris catcher across the Esk on the west side of the overbridge that carries the A1 dual carriageway and the works to construct access roads to the debris catcher.

These are my reasons for objection to The Scheme:

- 1/ **Disturbance:** The construction traffic and all maintenance vehicles will be using a narrow quiet road that is used by many horse riders. This will cause a noise and dust nuisance which does not currently exist.
- 2/ **Traffic Generation:** The road the debris catcher construction traffic and subsequent debris catcher maintenance traffic propose to use is a narrow private road and used by horse riders, walkers with prams and small children, the movement of livestock, a low volume of cars accessing the livery yard and light farm traffic. It has a speed limit of 10mph. Vehicles must not pass horse riders or horses being led any faster than 10mph. Using this narrow private road for heavy construction and maintenance vehicles will put the other road users at risk and will create a health and safety issue. It will also damage the already fragile road surface.
- 3/ **Unnecessary cost:** I really object to tax payer money being wasted to create a new access road to the Esk when there is already a fit for purpose, flatter tarmac access road from Cowpits Road. The proposed site of the debris catcher currently has no access for vehicles of any sort. It is an unsurfaced rural path and totally unsuitable for heavy vehicles. The plans show the access road will need to be constructed over a soft grass livestock field, then through an ancient and well established woodland, down a steep fragile river path that is not robust enough to support heavy construction vehicles and subsequent heavy machinery and vehicles needed to clear the debris catcher. The entire river banking would need to be reinforced before it could be used for this purpose. There is already an asphalt access road to the Esk in Grove which has easy access from Cowpits Road. Therefore a cheaper and less damaging option would be to place the debris catcher to the east of the A1 dual carriageway over bridge, in the vicinity of the railway over bridge and use the existing asphalt access track/road along the Grove to construct the debris catcher and subsequent debris removal. However removing any type of debris catcher from the scheme is the best option because wherever one is constructed, there will be an unacceptable cost and it will cause flooding in the areas upstream where there was previously none. It simply shifts the problem and does not provide a solution.
- 4/ **Environmental Impact:** The construction of the access road for the debris catcher will result in the loss of grazing land and will disturb and worry livestock. It will damage and destabilise the fragile high river bank path resulting in landslips. Hundreds of trees and the natural path will need to be destroyed in order to build a road wide enough for the construction and debris extraction vehicles. The destruction of trees and natural habitat will be damaging to the wildlife in this location. There are deer, foxes, hare, buzzards, bats, squirrels, possibly badgers and other creatures too numerous to list in this woodland. In this world of climate change activists we are supposed to be saving trees not destroying them for a poorly designed flood protection plan that is likely to cause more flooding and environmental damage than if no action was taken at all. It is an absolute disgrace that the designers have concluded that it is acceptable to destroy this area of natural beauty and the wildlife that occupies it when the proposed debris catcher will actually do more harm than good. The proposed mitigation plans are woefully inadequate and poorly thought out,
- 5/ **Loss of Amenity / Health and Well Being:** The construction works would be detrimental to my mental and physical health and wellbeing. The proposed site of the access road and the debris catcher will spoil my enjoyment of the countryside. I ride my horse on this woodland bridle path and ford the river at this point several days a week. Building the access road and debris catcher in this

location would rob me of this healthy activity. There are around a hundred or so horse riders that regularly ride horses on the bridle path and ford the river. Robbing them of this natural path and the ability to ford the river to enjoy the bridle path on the opposite side will negatively affect their health and wellbeing too.

The Musselburgh Flood Protection Scheme design has conveniently ignored the requirements for horse riders of which there are hundreds in the local area. The design of the scheme and its active travel plans excludes and discourages horse riders the majority of whom are women and children. The loss of amenity for horse riders must not be ignored and the scheme should be redesigned so horse riders are included and catered for.

7/ Lack of Consultation: There has been no attempt to communicate the proposal for the access road and debris catcher to those who access the Dalkeith Park Estate from the Monkton Gate from Old Craighall. There has been information available at the Whitecraig Gate. Why was the same information not provided at the Monkton Gate where the impact of the Scheme is going to be much more damaging and serious?

Yours Faithfully,

A large black rectangular redaction box covering the signature area.





Date: 23/04/24

Carlo Grilli  
Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA  
[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

Dear Carlo,

I am writing to object to the recently published Musselburgh Flood Protection Scheme. I will start off with the fact that I am against the current flood defence proposal, due to the potential effects on the local and migrational wildlife.

I will also admit that I am not fully against the idea of flood defences in general, but again I can only stress that the current proposal just lacks any real thought for the wildlife, the general population of the town of Musselburgh and is just a downright ugly and completely overpriced design.

East Lothian council should be looking to artists, architects and people in the agricultural landscape for advice on what could in a way be turned into something that is not only an effective barrier from potential flooding, but could combat climate change, and perhaps even be somewhat of a local tourist attraction. Just a suggestion of course - but I really believe that this project really needs a lot more consideration and careful planning.

The impact on congestion is already an absolute nightmare in the town centre of Musselburgh and will only be made worse by a project of this scale - can the build be worked into smaller chunks to alleviate making matters worse. With congestion, there will be a terrible impact on local businesses - just like that of the Edinburgh tram network (part 1 and part 2).

I object to the published scheme because:

- Impact on local and migrational wildlife
- The suggested pricing for the current proposal is ludicrous.
- The design is downright ugly, it really needs more of a carefully considered architectural element.

- The impact on congestion to the main road into the town of Musselburgh.
- Local businesses will suffer hugely with a project of this scale.

Please acknowledge receipt of my letter of objection, in writing. Please advise me of next steps, and timescales.

Yours Faithfully,

A solid black rectangular box used to redact the signature of the sender.

**Subject:** (0466) Fwd: Objection to proposed flood scheme

**Sent:** 24/04/2024, 06:56:36

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Cc:** [REDACTED]

**Categories:** [REDACTED]

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**From:** [REDACTED]

**Date:** Wed, Apr 24, 2024, 6:48 AM

**Subject:** Fwd: Objection to proposed flood scheme

**To:** [REDACTED]

Sent from my iPhone

Begin forwarded message:

**From:** [REDACTED]

**Date:** 22 April 2024 at 20:56:05 BST

**To:** [mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

**Subject:** Objection to proposed flood scheme

[REDACTED]

[REDACTED]

To Whom it may concern,

I'm writing to express my objection to the proposed Musselburgh Flood Protection Scheme.

Our home is in close proximity to the river Esk and the seafront and the proposed scheme will therefore have a direct impact on our lives.

My first objection is related to the overall design of the scheme which seems to rely on tons of concrete being used without any consideration to the natural and historical beauty of our town. I believe that unsightly concrete barriers are very dated solution and will forever destroy people's enjoyment of the river and the seafront. There is nothing esthetically exciting in the design. Nothing at all. Just concrete nightmare. I'm shocked that East Lothian Council has not put any emphasis on preserving charter of the town and hasn't chosen better suited solutions to deal with their concerns. We live in a conservation area and Council is very strict when it comes to individuals making improvements to their properties. I'm sure that if we wanted a high concrete wall around our property we wouldn't be granted permission. It would be unthinkable.

Musselburgh is beautiful. Everybody agrees that river with its green riverbank, ducks, geese and all kinds of birds is truly special to our town.

The Flood Protection Scheme design is simply not fit for character of the town.

My second objection is to the height of the proposed walls around the river and the seafront. The proposed walls are extremely high and at some places the walls will be blocking all the views completely. Children and wheelchair users will be the most affected by this. What is the purpose of such a high walls? The flood might never happen but people have to look at the walls every day.

I object to the fact that we will not be able to enjoy beautiful views we got accustomed to enjoy.

I also object to many mature trees being killed to facilitate this scheme.

We should enhance green spaces and protect our trees and wildlife. I would expect the Council to choose the scheme that prioritises natural solutions and not the one that replaces trees and green spaces with concrete.

I hope you take my objections into consideration and don't go ahead with this depressing scheme.

Regards,



P.s

Please acknowledge receipt of my letter of objection, in writing.

Sent from my iPad

**Subject:** (0467) Fwd: Objection to proposed flood scheme

**Sent:** 24/04/2024, 07:29:03

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Categories:** [REDACTED]

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----- Forwarded message -----

**From:** [REDACTED]

**Date:** Wed, Apr 24, 2024, 6:48 AM

**Subject:** Fwd: Objection to proposed flood scheme

**To:** [REDACTED]

Sent from my iPhone

Begin forwarded message:

**From:** [REDACTED]

**Date:** 22 April 2024 at 20:56:05 BST

**To:** [mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

**Subject:** Objection to proposed flood scheme

[REDACTED]

[REDACTED]

To Whom it may concern,

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Regards,



P.s

Please acknowledge receipt of my letter of objection, in writing.

Sent from my iPad

Carlo Grilli  
Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA  
[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)



24<sup>th</sup> April 2024

Dear Carlo,

I am writing to object to the recently published Musselburgh Flood Protection Scheme. I live in Musselburgh and enjoy frequent walks along the river and coast.

I object to the published scheme because:

1. Conflicted Interests – The proposed contractors for the project have made the Environmental Impact Assessment and carried out an options appraisal, which ruled out all other options. There is an obvious conflict of interest here.
2. Bias – Since the proposed contractors are the only ones involved in the entire process, with no independent assessment, this is an obvious source of bias concerning the outcome of the final scheme.
3. Cost – There are no cost breakdowns for this scheme available to the public, who will ultimately be paying for it. The council has already been told costs are likely to rise and there is no cost cap in place. This is a virtual licence to print money for the contractor.
4. Biodiversity Loss – The proposed scheme only involves embankments and walls with no suggestions for natural means of flood control. Creating dunes rather than a sea wall is a more robust long term solution that requires far less maintenance.
5. Natural Solutions – There are no proposals to restrict river flow by natural means, which again would be more effective and last longer than just building a wall.
6. Quality of Life – Most Musselburgh residents interact with the river on a daily basis and it is part of their life. Walling this off instead of seeking alternative solutions will have a detrimental effect on the quality of life of everyone in the town. Also, the building works, including years of driving piles into the ground will have a major impact on the mental health of many people.
7. Lack of Clarity – The number of properties that are defined as being protected by the scheme varies depending on which document you read. There is no robust evidence to support any of the figures.

Yours Sincerely,



**Subject:** (0469) Flood Protection scheme  
**Sent:** 24/04/2024, 07:59:25  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

Dear Sir / Legal Services

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These are my reasons for objection to The Scheme:

1/ Disturbance: The construction traffic and all maintenance vehicles will be using a narrow quiet road that I use to ride my horse on for my mental and physical health and wellbeing. This will cause a noise and dust nuisance to me which does not currently exist.

2/ Traffic Generation: The road the debris catcher construction traffic and subsequent debris catcher maintenance traffic propose to use is a narrow private road and used by horse riders, walkers with prams and small children, the movement of livestock, a low volume of cars accessing the livery yard and light farm traffic. It has a speed limit of 10mph. Vehicles must not pass horse riders or horses being led any faster than 10mph. Using this narrow private road for heavy construction and maintenance vehicles will put the other road users at risk and will create a health and safety issue. It will also damage the already fragile road surface.

3/ Unnecessary cost: I really object to tax payer money being wasted to create a new access road to the Esk when there is already a fit for purpose, flatter tarmac access road from Cowpits Road. The proposed site of the debris catcher currently has no access for vehicles of any sort. It is an unsurfaced rural path and totally unsuitable for heavy vehicles. The plans show the access road will need to be constructed over a soft grass livestock field, then through an ancient and well established woodland, down a steep fragile river path that is not robust enough to support heavy construction vehicles and subsequent heavy machinery and vehicles needed to clear the debris catcher. The entire river banking would need to be reinforced before it could be used for this purpose. There is already an asphalt access road to the Esk in Grove which has easy access from Cowpits Road. Therefore a cheaper and less damaging option would be to place the debris catcher to the east of the A1 dual carriageway over bridge, in the vicinity of the railway over bridge and use the existing asphalt access track/road along the Grove to construct the debris catcher and subsequent debris removal. However removing any type of debris catcher from the scheme is the best option because wherever one is constructed, there will be an unacceptable cost and it will cause flooding in the areas upstream where there was previously none. It simply shifts the problem and does not provide a solution.

4/ Environmental Impact: The construction of the access road for the debris catcher will result in the loss of grazing land. The construction and extraction process will disturb and worry the livestock. It will damage and



destabilise the fragile high river bank path resulting in landslips.

Hundreds of trees and the natural path will need to be destroyed in order to build a road wide enough for the construction and debris extraction vehicles. The destruction of trees and natural habitat will be damaging to the wildlife in this location. There are deer, foxes, hare, buzzards, bats, squirrels, possibly badgers and other creatures too numerous to list in this woodland. In this world of climate change activists we are supposed to be saving trees not destroying them for a poorly designed flood protection plan that is likely to cause more flooding and environmental damage than if no action was taken at all. It is an absolute disgrace that the designers have concluded that it is acceptable to destroy this area of natural beauty and the wildlife that occupies it when the proposed debris catcher will actually do more harm than good. The proposed mitigation plans are woefully inadequate and poorly thought out,

5/ Flood Risk: Common sense and logic would make a sensible person conclude that the proposal to narrow the river in Musselburgh is more likely to cause flooding in Musselburgh and also damage the environment by causing areas upstream to flood. This will increase erosion and cause multiple landslips along the already fragile and crumbling Esk Valley.

Additionally my experience of debris traps is that when they are blocked and a dam is formed, there are never any Council resources available to deal with the blockages in a timely manner and the surrounding areas become severely flooded. The debris catcher will ensure more areas along the Esk will be flooded than before. The plans for a debris catcher should be removed completely from the scheme.

6/ Loss of Amenity / Health and Well Being: The construction works would be detrimental to my mental and physical health and wellbeing. The proposed site of the access road and the debris catcher will spoil my enjoyment of the countryside. I ride my horse on this woodland bridle path and ford the river at this point several days a week. Building the access road and debris catcher in this location would rob me of this healthy activity. There are around a hundred or so horse riders that regularly ride horses on the bridle path and ford the river. Robbing them of this natural path and the ability to ford the river to enjoy the bridle path on the opposite side will negatively affect their health and wellbeing too.

The Musselburgh Flood Protection Scheme design has conveniently ignored the requirements for horse riders of which there are hundreds in the local area. The design of the scheme and its active travel plans excludes and discourages horse riders the majority of whom are women and children. The loss of amenity for horse riders must not be ignored and the scheme should be redesigned so horse riders are included and catered for.

7/ Lack of Consultation: There has been no attempt to communicate the proposal for the access road and debris catcher to those who access the Dalkeith Park Estate from the Monkton Gate from Old Craighall. There has been information available at the Whitecraig Gate. Why was the same information not provided at the Monkton Gate where the impact of the Scheme is going to be much more damaging and serious?

Yours Faithfully

[Redacted signature]

[Redacted signature]

[Redacted signature]

[Redacted signature]

Date: 24/2/2024

**Subject:** (0470) Objection to the MFPS  
**Sent:** 24/04/2024, 08:38:48  
**From:** [Redacted]  
**To:** Musselburgh Flood Protection Objections  
**Attachments:** [Flood scheme objections final.pdf](#)

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To whom it may concern.  
  
Please find attached my objection to the Scheme  
  
Please acknowledge receipt of this email.

[Redacted]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
22 April 2024

Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA  
[mfpsobjections@eastlothian.gov.uk](mailto:mfpsobjections@eastlothian.gov.uk)

To whom it may concern

I am writing to object to the recently published Musselburgh Flood Protection Scheme (the proposed Scheme). I am a person directly affected by the Scheme and have an interest in the land affected. I am the owner of [REDACTED] that has garden boundaries that adjoin the [REDACTED], and to the [REDACTED]. The Scheme has a seawall to be constructed [REDACTED]. I have a number of concerns over security and privacy issues affecting my property and arising from the Scheme, including objections specifically due to public access to the [REDACTED].

My property has a right to access the land [REDACTED]. Therefore I am a person of interest in the affected land [REDACTED] of my property.

I use the Fisherrow Links for running and dog walking and access both beaches at Fisherrow most days for bird watching and health benefits. A coastal sea defence with limited access, and the works compound at Murdoch's Green, will directly impact my ability to continue to use my surroundings in the way that I am used to and will disturb my enjoyment of the land.

If the scheme proceeds in its present form without amendments I expect to be compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).

I object to the published scheme on the following grounds:

## Property related matters

Objection 1. The consultants have stated to me at face to face meetings that they require to take down my rear [REDACTED]

[REDACTED] **I object to this as I have not given permission for [REDACTED]**

Objection 2. I hold the same view in regards to the brick and stone [REDACTED] [REDACTED] **I object because I have not given permission to any works that may affect [REDACTED] either.**

Objection 3. **I object because I have not been provided with sufficient information by the Council or their consultants that demonstrates the current or future planned ownership of land between the constructed [REDACTED]** [REDACTED] This is important because it affects who can access that land and this impinges upon by safety and security. I have received no written information as to the intention for the use of this land which, whether intended or not, creates a walkway. This land is in close proximity to a public car park and public leisure area and the Scheme shows that it is accessed directly from the [REDACTED] car park area, so can be accessed by the public. An individual can be easily concealed from view by standing between the two structures [REDACTED] [REDACTED] ) due to the height of these walls. The potential of risk of damage to my property and/or my person will increase materially severalfold as a result.

Objection 4. Furthermore, the new seawall would impede my [REDACTED] [REDACTED] should I wish in future to put into effect my right of access to the land to the [REDACTED] [REDACTED]. The seawall will remove my current route of access to the beach should I, or a future owner of my property, choose to action my right of access. It instead offers me a separate longer route. This has a major impact on my future enjoyment and value of my property for which **I will be seeking compensation.**

Objection 5. It has been mentioned in passing by members of the MFPS consultants and the Council's team that [REDACTED] will not be in any shape or form be affected, altered or replaced by a seawall as a result of the needs of the scheme; excepting their requirement to rectify damage. **I hereby state categorically that under no circumstance would I give permission for any work to be done to [REDACTED].** A breach of my decision would result in the further impact of my enjoyment of my property for which I will be **seeking compensation.**

Objection 6. There are plans for renovations of the adjoining land to the [REDACTED] [REDACTED] much of which is Council owned land. **I object to there being insufficient information on the size of structures or placing of planting in the land to the [REDACTED] to understand the effects of this on my right to privacy and enjoyment of my property. I require to understand the effects on me of the Scheme to the adjoining land to the**

██████████ and a written undertaking of the intended structures and use because it has a material effect on my privacy and security, **and increasing risk to my person** (noting I am a ██████████) including as a result of the following:

- oversized replacement play equipment and a higher seawall will make it much easier to ██████████ right to peaceful enjoyment of my home and security by enabling visibility into the ██████████
- new planting and structures that may impede my views to the ██████████

Any impacts would require compensation to me for any loss of privacy and amenity.

Objection 7. Previously published public information (posted on a public noticeboard at Murdoch's Green on 20 January 2024) shows the ██████████ with markings that on the legend read "replace ██████████". **For the record, use of ██████████ as seawall or part therein will not be permitted by me.**

Objection 8. There are potential adverse effects of scheme construction on my property. My house was built in ██████████ and does not have modern foundations. Construction of the coastal wall presents a material risk to the structural integrity of the building due to Scheme construction work in the vicinity of my property. **I require a full structural survey of the property ahead of the works by an independently appointed surveyor.**

Objection 9. It is not known if my property can survive the punishment of nearby construction work unaffected. Therefore, I require a subsequent full structural survey by an independently appointed surveyor to be carried out in the event of damage occurring as a result of the construction. **Any damage recorded must be compensated for** and the property fully restored to its condition as will be recorded by an independent survey prior to the commencement of the operations.

Objection 10. I am not aware of where all my drainage outlets are and whether these may flow out to the ██████████ of my property, therefore there is a **risk that construction will affect the drainage at my property and this must be mitigated and compensated for.**

Objection 11. **I object to the height of the wall because a concrete wall of the designed height (approximately 1.4m) to the ██████████ will attract graffiti in Musselburgh.** This will result in a loss of amenity of the beach and devaluation of property in the area, **for which I expect to be compensated.**

**Coastal flood protection**

Objection 12. **I object that the scheme has been expanded by the Council to include coastal defences without adequate scientific evidence** because the findings of the expert report that ELC commissioned from Dynamic Coast were not available to councillors at the time the decision by the Council was taken to expand the scheme to the coast (on 24 January 2024). Alternative evidenced coastal defence options could, therefore, not be properly examined or presented. As a result, the only solution presented to the council and public was walls. The points made in the Executive Summary of the Dynamic Coast report demonstrate this lack of consideration of key factors when proposals for seawalls as presented in the Scheme were recommended by the consultants to the Council:

- Point 4 – on threats of erosion to flood defences
- Point 5 – the recommendation of a risk based dynamic adaptive approach
- Point 3 – suggestion of the immediate need for nature based enhancements

Objection 13. **I object to the short period of time that the coastal assessment report has been made available to me to fully consider its contents.** The Dynamic coast report was made available on March 24, 2024. Whilst it is very informative, I have not had enough time to fully analysis it, or to consult with relevant experts to make an independent interpretation of the findings; this is a breach of my human rights.

Objection 14. **I object to any further progression of the proposed Scheme until the Council has developed its Coastal Change Adaptation Plan as recommended by the Dynamic Coast report.** The Scheme on the coast is not an adaptive approach that the Scottish Government advises and which the Scheme's own design statement claims to follow. As a result this will severely constrain the development of the Council's Coastal Change Adaptation Plan, which is being carried out this year.

Objection 15. **I object to construction of a seawall, the integrity of which is predicted to be threatened well before the end of its expected design life.** The report highlights that future erosion risk may threaten the Scheme's defences and other assets along the town's frontage. Sand replenishment and other action is needed to protect the new defences from erosion, but there is no mention of such measures or plans, their likely cost, feasibility, or environmental impact over the long term. The rate of erosion predicted by Dynamic Coast along the Musselburgh coastline contradicts the assumption that the defences will last for 100 years. The report's analysis of coastal erosion processes on the flood defences shows "direct impact is likely to occur relatively soon, most likely 2030-2040 but potentially earlier" (p.25). This undermines many key aspects of the case for the Scheme:

- the cost benefit ratio is no longer valid

- my property is likely to have a reduced standard of protection and at considerable cost to the taxpayer
- and it shows the Scheme has failed to meet a stated environmental objective of the scheme “to consider the impacts of climate change” (EIA) and;
- that a key statement in the EIA that the Scheme assets “have an inherently low vulnerability to climatic factors and the likely variation in these due to climate change” is incorrect. This means that this chapter, as applied to these sections of the proposal, is inadequate and cannot be considered to fulfil the legislative requirements.

**Objection 16. I object in the strongest terms to the use of RCP8.5 (95% ile)**

**because it embeds in the design, events of a climate future that is a threat to humankind.** On the 9<sup>th</sup> April 2024, in a landmark decision, the European Court of Human Rights ruled that government inaction on climate change violates fundamental human rights. I feel very strongly that whilst RCP8.5 may be within the SEPA guidance it demonstrates, or even sanctions, intended inaction on climate change by the Council, which violates my human rights and affects my health and wellbeing. Of critical importance this sends a message to the young people of Musselburgh that the council is very much part of a culture of inaction by accepting the consultants view of the future. The use of RCP8.5 at the 95% ile represents the absolute maximum level of sea level rise within the guidance. The differences in sea level rise between RCP 2.5, RCP 4.5 and RCP 8.5 using the 5% ile are smaller than the differences within each scenario (i.e. between 5% and 95% within the RCP). Whilst the precautionary principle has validity for planning for risk events, the benefits of planning for such an extreme level of sea rise are disproportionate to the community because of the negative impacts to cost, scale of structures, loss of connection to nature etc and given the uncertainty of the value because it is modelled for a future so far ahead.

**Objection 17. I object to the seawall [REDACTED] as it will be redundant by the time it offers [REDACTED] (and potentially others) protection.**

The Dynamic Coast report predicts continued accretion of sediment outside my property at RCP4.5 up to 2100 and for RCP8.5 until 2050 (2050 being the approximate date that Dynamic Coast predicts the walls will last until due to erosion). I therefore gain no benefit from a seawall, I do not need it in the specific area where I live. If walls will last to 2030-2040 then the RCP scenario that is most likely to be applicable at that time should be used for its design. This can be informed by what arises for the Coastal Adaptation Planning work. **I object because the coastal defences in the Scheme proposal are unlikely to represent value for money** given the few properties protected (<5), cost, environmental and other impacts to the local community of building hard engineered structures that the Dynamic Coast report shows will be effective over relatively short timescales and only for certain parts of the coast. Other solutions, such as nature based solutions, which were dismissed, without access to

adequate science (such as this Dynamine Coast report) may be more cost-effective, more readily targeted to risk areas, less disruptive and therefore more cost-effective.

**Objection 18. I object to the Scheme urbanising a natural rural coastal (and river) environment, valued for its high amenity value by local residents and designated for its biodiversity value.** The consultants have simply not understood or acknowledged the very high levels of concern expressed through petitions to the council and consultation on this point. Urbanisation results from the use of hard engineered structures in designed for RCP8.5 95%ile in conjunction and MAT. The flood event planned for results in a huge bridge (Goose Green), large bridge ramps, walls and embankments. These cause a loss of valued habitat and amenity in a protected area. Coupled with the Musselburgh Active Toun (MAT) infrastructure, this radically and negatively alters the coastal environment (to concretisation) for the foreseeable future. Noting also that plans for trees and infrastructure on the links at Fisherrow is out of character for that type of environment which is essentially open in character.

**Objection 19. I object that the consultants have used different climate scenarios in different parts of the Scheme** with scenario 2 at the river and scenario 4 (RCP8.5 at 95%ile) at the coast. The reasoning for this is unclear and undermines the claim the flood scheme is science led.

**Objection 20. I object to the use of Scenario 4 for the coast.** The scheme as presented to the public on 21 March 2024 for comment and objection has been revised for the river in the light of public concerns with lowering of defences to Scenario 2 (to 2050). **I object on the grounds that consultees at the coast have not had their concerns taken into account in this way.** In addition, I was not asked whether I had any preference for any particular scenario over others or whether I would prefer alternative approaches. I prefer the types of measures set out in the Dynamic Coast report, which include beach replenishment.

**Objection 21. I object to the fact that the Scheme proposed for the coast is premature.** The dynamic coast report suggests further analysis of coastal processes is needed to better understand how climate change is affecting beach erosion. This analysis should be done before a decision made on defences at the coast.

**Objection 22. I object to the lack of options appraisal for the coast during consultation.** There was no option appraisal to review. The discussion with the consultants has been based on their poor knowledge of coastal nature-based solutions, with far-fetched solutions put forward as examples of alternatives. For example, when questioned about the potential for nature based solutions, the consultants stated that four meter sand dunes would be required and that this would result in large carbon emissions. When asked, at a public consultation event whether the natural establishment of areas of marram grass, on the beach at the Back Sands, in the vicinity of the harbour, might be associated with sand



accretion, the response from the consultants was that no such association could be drawn. The Dynamic Coast makes no mention of the need for huge dunes and it evidences that accretion is indeed a feature of these parts of the beach. The Dynamic Coast report demonstrates that these beliefs and statements put forward by the consultants (about nature based solutions) which did influence the public and Council decision making, were not based on scientific understanding or evidence.

### **Loss of connection with nature and biodiversity concerns**

Objection 23. The Aim of the 2019 scheme was to not lose connection with nature. **I object because the Scheme will lead to a substantial severance with nature with many negative impacts to ecosystem service delivery.** The canalisation of the river, excessive size of bridges, ramps and infrastructure, walls on the coast and the MAT scheme elements that the proposal is designed to include, lead to a very clear loss of connection with nature on the last stretch of natural river and coastline when entering Edinburgh from the East Lothian. Musselburgh residents value highly their river and coastline as it is now; it also attracts many visitors, which is beneficial to the local economy. The public are disconnected from nature by the type and size of the flood structures, the sheer dominance of concrete and tarmac-ed surfaces and being constrained in active travel options on the “wrong” side of hard infrastructure (i.e. cut-off from the river). The Scheme will:

- heavily urbanise and irreversibly change the current, highly valued, character of the river and coastline
- irreversibly, and very negatively, alter a river environment of great historic importance, designated as conservation area
- cut the public off from a coastline highly valued for its wildlife and designated for its biodiversity value

Objection 24. The seawall on the beach to the [REDACTED] [REDACTED] [REDACTED] will materially affect my enjoyment of the amenity and biodiversity value of my direct environment, which is the reason I live here. **I object to this and require compensation for this.**

Objection 25. **I object because there are elements of the Scheme that are unnecessary to reduce flood risk, and may, in some cases, increase it:**

- The Goose Green Bridge is unnecessary, it provides no flood protection, excessively urbanises the coast, adds to carbon emissions, is not good use of taxpayer money and will disturb wildlife during construction.
- Narrowing the river by 6m to near the Rennie Bridge to accommodate MAT does not deliver flood protection; it is likely to have the opposite effect because it means higher walls are required to deal with the level of flood event planned for, with consequences for amenity value.
- The extra width of the bridges does nothing to reduce flood risk

- The double ramps on Eskside east do nothing to reduce flood risk

Objection 26. **I object to Scheme infrastructure at the mouth of the Esk as it runs counter to the objective of river restoration** which requires as much space as possible for natural processes to occur - for the benefit of river and its associated biodiversity and other ecosystems co-benefits (which include cultural benefits).

Objection 27. **I object to the Scheme because it has a narrow focus and misses the opportunity for biodiversity enhancements** (and associated ecosystem benefits) through natural flood management actions in the wider Esk catchment and at locally. The biodiversity enhancements, as required by NPF4, should be far more ambitious and should include some 'traditional' Natural Flood Management (these actions being included in the Scheme under biodiversity enhancement in recognition of the fact that their flood reduction impact is uncertain and therefore cannot be the main justification for their inclusion).

Objection 28. **It appears that the Scheme has a preference for MAT as a co-benefit. I object on the grounds that I have not seen any objective analysis of the consideration and weighting of alternative co-benefits.** MAT leads to a loss of greenspace and these provide a range important environmental and cultural ecosystem services (e.g. biodiversity, human wellbeing, water regulation, water quality, air quality, carbon sequestration). There has been no study of the provision and economic value of these ecosystem services that the river and coastline provide (there are accepted methods and examples of local authorities that have implemented such assessments) and this is an oversight of the Scheme and demonstrates the fundamental limitations of advancing schemes with a very rigid adherence to SEPA's current guidance.

Objection 29. **I am unable from the EIA to assess the carbon emissions of the Scheme as it includes MAT elements. I object to this in the strongest terms.** I need to understand the level of emissions because they are a very important consideration in a country that is failing to meet, and has had to abandon its near term (2030) emissions reductions targets. I consider this a biodiversity concern, because ultimately it is established in science and policy that failure to address carbon emissions accelerates climate change with consequences for society arising from biodiversity collapse. In this scheme we build for (with carbon emission consequences), plan for and accept a future (RCP 8.5, 95% percentile on the coast) that must be challenged and addressed (because there are nature based solutions that if incorporated at scale will deliver carbon sequestration, enhance biodiversity, bring wider economic benefits and contribute to NFM, thus reducing the height of walls) if we are to meet Scotland's 2045 targets.

Objection 30. **I object because further biodiversity enhancements relating to the River Restoration project should be included within the town of Musselburgh.**

**Carbon emissions impact**

Objection 31. I object to the overall carbon impact of the Scheme because of the lack of commitment to actions which is a breach of my human rights. The proposed mitigations in the EIA are all described as 'potential' actions, or actions that 'could' be explored through the proposed Carbon Management Plan. Until these suggested secondary mitigations are mandatory, the overall effect on Global Atmosphere – Climate from the Scheme must still be considered Moderate Adverse- Significant, and I object to it on that basis.

### **Flawed decision making processes**

Objection 32. **I object to the decision making process because East Lothian Cabinet Committee did not have the authority to approve the excess budget for the Musselburgh Flood Protection Preferred Scheme.** This prejudiced the emerging plan. On the 21st January 2020 the reduced East Lothian Cabinet Committee did not have the authority to approve the excess budget for the Musselburgh Flood Protection Preferred Scheme. In taking decisions which involve the expenditure of public funds East Lothian Council had a duty to comply with applicable law as well as internal guidance or process with applies. They failed to do so.

Objection 33. **I object absolutely to the Council allowing MAT to influence the scheme design in a way that dramatically urbanises a rural environment under the pretences of the incorrect legislative powers.**

Objection 34. **I object because there appears to be maladministration in the incorporation of MAT.** In the outline design statement p10 it states "Certain parts of the MAT are also part of the Scheme ..... consequently these parts will be consented as part of the Scheme rather than part of the MAT".

Objection 35. **I object to not being informed that I could have objected to MAT under a different process,** or more actively engaged and influenced it under the Scheme consultation processes.

Objection 36. **I object to the Council seeking to accept and embed the design and additional cost to build elements for MAT** even though the Flood Protection Act is not the right legislative planning process to use for that.

### **Consultation processes**

Objection 37. Part of MAT has been removed from the Flood Scheme. I have not been advised of which elements of the MAT are still contained in the Flood Scheme and which are not. **I object because it is not possible to make clear determinations of the impact of the proposal as a result.**

Objection 38. MAT elements were not explained properly in the consultation and it was not made clear that they were being consulted upon or how they should be correctly handled through the planning process. **I object to their inclusion on the basis that I have therefore not been properly consulted which is a**

**breach of my human rights.** The Council should provide a clearer explanation and the public must be given the possibility to review, assist in the design of, or object to the MAT scheme specifically.

Objection 39. Both physical structures and routes need planning permission as development. **I object to any parts of the MAT that remain in the Scheme that require planning permission.** This could be, for example be the double ramps on Eskside West.

Objection 40. **I object that I had insufficient time to consider the impact of the removal of MAT and insufficient time to consider the EIA** (I work full time and even if I didn't there would not be time for adequate consideration) I still don't understand the implications of MAT removal. What I do see is that the scheme design is driven by MAT being on the 'dry' side of the wall and this influences the flood scheme in a way that leads to it abandoning its initial objective of not losing the connection with nature.

The design for the inclusion infrastructure for MAT includes stretches that are part of the National Cycle Route (NCR) network. I object because the Scheme does not adhere to NCR design principles, namely:

- NCR stretches have not been designed in collaboration with the local community.
- Network routes should be managed in a way that enhances biodiversity; the MAT does the opposite it adversely impacts biodiversity by narrowing the river corridor and canalising the river rather than allowing space for restoration.
- NCR routes should feel like a safe place to be – this will not be the case at the mouth of the River Esk on the East side where the MAT creates a tall enclosed alley feel, which would remain even with lighting.
- Be attractive and interesting – attractive and interesting natural features are being removed from the scheme in favour of a heavily urbanised design that is out of keeping with the character of the coast and river.

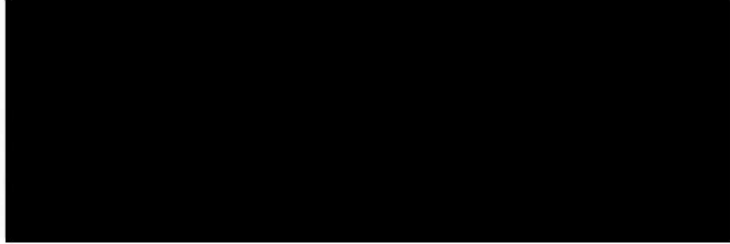
Objection 41. **I object that the EIA accompanying the Musselburgh Flood Protection proposed scheme is inadequate, inaccurate and does not fully take into account the implication on Bird life and bird watching in Musselburgh and along Musselburgh's foreshores.** Musselburgh is considered one of the top UK birdwatching sites and is promoted as such as a national level. I specifically object to:

- The failure to undertake a fully investigated review of the effects and implications for wildfowl and birdlife in Musselburgh and along the Musselburgh foreshore has implications for me personally as a birdwatcher, and for visitors to Musselburgh who come to the town for birdwatching and contribute to its economy.

- The desk and survey results presented in the EIA report from surveys of shoreline and coastal birds are not detailed enough to provide assessment of the impact of the scheme on the internationally and nationally designated sites around Musselburgh. It is not possible to judge if mitigation measures are adequate without this data. For example, the desk study in the EIA report fails to include useful data from the East Lothian Council Ranger service, the British Trust for ornithology (BTO) and the Scottish ornithologist's club (SOC).
- The EIA gives the agglomerate count figures of birds but should give species specific data. Additionally, the data used is out of date. The most recent data available up to 2022/2023 should have been used not the 2013 to 2017 data contained in the report. The EIA is therefore misleading and inaccurate rendering it not fit for purpose.
- Counting was done when two of the lagoons were under construction activity during 2021 to 2023 which created considerable disturbance and which is not therefore representative.
- The EIA report attempts to identify and quantify loss of habitats from the scheme but it does not identify the main habitat impact of the scheme namely 'coastal squeeze'. The EIA does not meet its own commitment to give an appraisal of the future baseline without the scheme in order to assess the possible effects of the scheme if it goes ahead. Proceeding without adequate assessment of habitat loss from 'coastal squeeze' goes against the council scheme objectives that 'the scheme will achieve as a minimum a neutral impact on the environment' and also that it will 'protect the Firth of Forth and its protected statuses'. ELC has an actual duty to protect and enhance biodiversity which cannot be fulfilled in this case without the necessary detailed bird data to assess the impact of the scheme and design mitigation.
- The EIA report notes that 'the improvements to the active travel network particularly along the seawall and the proposed Goose green bridge may result in increased pedestrian and cyclist traffic which may create increased operational disturbance to qualifying bird species' The report makes it clear that it's uncertain whether the cycle paths will result in increased active travel in which case how can the expenditure, the additional risk of impacts on internationally and nationally designated bird sites, and the carbon footprint of constructing these two elements of the scheme, be justified without strong independent evidence that there will be sufficient active travel benefits. These two elements need to be removed from the scheme not least as there are already foot and cycle paths along the relevant sections of the scheme coastline.
- Finally consider the impacts on recreational amenity over the construction period, specifically for birdwatching. Musselburgh is one of the most visited birdwatching sites in Scotland enjoyed by hundreds of visitors every year. This tourism and amenity value of the scheme area for birdwatching is not given recognition in the EIA report and as a result there is insufficient attention given to mitigating disruption to this activity. This is significant because the schemes construction phase could take a period of 5 to 10 years, imposing long-term damage to the area's use and reputation as an ornithology visitor attraction.

Please acknowledge receipt of my letter of objection in writing. Please advise me of next steps, and timescales. Please note I do not wish to be approached in person and matters regarding your objection must be communicated in writing only.

Yours Faithfully,

A large black rectangular redaction box covering the signature area.A small black rectangular redaction box covering the name.

**Subject:** (0471) Objection to Musselburgh Flood Defence at Dalkeith Country Park

**Sent:** 24/04/2024, 08:39:08

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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24/04/2024

Objection to works within Dalkeith Country Park

To whom it may concern

I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024.

I have an interest in the land in question being changed as I regularly ride my horse on the bridle paths and tracks that will be destroyed by the construction of this flood defence/debris catcher across the Esk on the west side of the overbridge that carries the A1 dual carriageway and the works involved to build to the debris catcher.

Some of my reasons for objection to this proposal are :

Traffic increase on narrow quiet tracks that we currently ride our horses on will be awful for us, for the wildlife and also for the wider community that walk these tracks daily. Currently the low volume of vehicles accessing the livery yard and light farm traffic, makes the country park a safe wide space for walkers, children and cyclists etc It has a speed limit of 10mph. Vehicles must not pass horse riders or horses being led any faster than 10mph. Using this narrow private road for heavy construction and maintenance vehicles will put the other road users at risk and will create a health and safety issue. It will also damage the already fragile road surface.

I also really object to tax payers money being wasted to create a new access road to the Esk when there is already a fit for purpose, flatter tarmac access road from Cowpits Road. The proposed site of the debris catcher currently has no access for vehicles of any sort. It is an unsurfaced rural path and totally unsuitable for heavy vehicles.

The plans show the access road will need to be constructed over a soft grass livestock field, then through an ancient and well established woodland, down a steep fragile river path that is not robust enough to support heavy construction vehicles and subsequent heavy machinery and vehicles needed to clear the debris catcher. The entire river banking would need to be reinforced before it could be used for this purpose.

There is already an asphalt access road to the Esk in Grove which has easy access from Cowpits Road. Therefore a cheaper and less damaging option would be to place the debris catcher to the east of the A1 dual carriageway over bridge, in the vicinity of the railway over bridge and use the existing asphalt access track/road along the Grove to construct the debris catcher and subsequent debris removal. However removing any type of debris catcher from the scheme is the best option because wherever one is constructed, there will be an unacceptable cost and it will cause flooding in the areas upstream where there was previously none. It simply shifts the problem and does not provide a solution.

The construction of the access road for the debris catcher will result in the loss of grazing land. The construction and extraction process will disturb and worry the livestock. It will damage and destabilise the fragile high river bank path resulting in landslips.

Hundreds of trees and the natural path will need to be destroyed in order to build a road wide enough for the construction and debris extraction vehicles.

The destruction of trees and natural habitat will be damaging to the wildlife in this location. There are deer, foxes, hare, buzzards, bats, squirrels, possibly badgers and other creatures too numerous to list in this woodland. In this world of climate change activists we are supposed to be saving trees not destroying them for a poorly designed flood protection plan that is likely to cause more flooding and environmental damage than if no action was taken at all.

It is an absolute disgrace that the designers have concluded that it is acceptable to destroy this area of natural beauty and the wildlife that occupies it when the proposed debris catcher will actually do more harm than good. The proposed mitigation plans are woefully inadequate and poorly thought out,

Common sense and logic would make a sensible person conclude that the proposal to narrow the river in Musselburgh is more likely to cause flooding in Musselburgh and also damage the environment by causing areas upstream to flood. This will increase erosion and cause multiple landslips along the already fragile and crumbling Esk Valley.

Additionally my experience of debris traps is that when they are blocked and a dam is formed, there are never any Council resources available to deal with the blockages in a timely manner and the surrounding areas become severely flooded. The debris catcher will ensure more areas along the Esk will be flooded than before. The plans for a debris catcher should be removed completely from the scheme.

The construction works would be detrimental to my mental and physical health and wellbeing. The proposed site of the access road and the debris catcher will spoil my enjoyment of the countryside. I ride my horse on this woodland bridle path and ford the river at this point several days a week. Building the access road and debris catcher in this location would rob me of this healthy activity. There are around a hundred or so horse riders that regularly ride horses on the bridle path and ford the river. Robbing them of this natural path and the ability to ford the river to enjoy the bridle path on the opposite side will negatively affect their health and wellbeing too.

The Musselburgh Flood Protection Scheme design has conveniently ignored the requirements for horse riders of which there are hundreds in the local area. The design of the scheme and its active travel plans excludes and discourages horse riders the majority of whom are women and children. The loss of amenity for horse riders must not be ignored and the scheme should be redesigned so horse riders are included and catered for.

There has been no attempt to communicate the proposal for the access road and debris catcher to those who access the Dalkeith Park Estate from the Monkton Gate from Old Craighall. There has been information available at the Whitecraig Gate. Why was the same information not provided at the Monkton Gate where the impact of the Scheme is going to be much more damaging and serious?

Yours

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



**Subject:** Objections to the flood wall!!!  
**Sent:** 23/04/2024, 21:34:41  
**From:** [REDACTED]  
**To:** mfpsobjection@eastlothian.gov.uk

---

Dear Carlo Grilli,

I would like to put an objection in to the planned flood wall at Musselburgh.

My reasons are

- Wildlife will be greatly affected by the cutting down of trees.
- River water temperature will increase with the wall which will greatly affect the waters wildlife.
- Musselburgh's beautiful trees should NOT be cut down!
- Locals wellbeing will be dramatically affected as we will not have a beautiful river walk.
- I believe other alternatives should be considered.
- Majority of locals DO NOT WANT THIS!

Kind regards

[REDACTED]

Sent from [Outlook for Android](#)

**From:** [REDACTED]  
**Sent:** 24 April 2024 09:11  
**To:** Musselburgh Flood Protection Objections  
**Subject:** (0473 DUPLICATE OF 0438 & 0549) Musselburgh Flood Prevention Scheme -  
Objection Letter attached  
**Attachments:** musselburgh flood prevention scheme letter.docx  
**Categories:** [REDACTED], Added to excel spreadsheet

You don't often get email from [REDACTED]. [Learn why this is important](#)

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[REDACTED]

[REDACTED]

23 April 2024

Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

Dear Legal Services

I am writing to object to the recently published Musselburgh Flood Protection Scheme. The grounds for my objection are detailed below.

I chose to live in Musselburgh [REDACTED] years ago - it is a beautiful town to live in and I love living here. I enjoy walking my dog regularly by the river, the harbour, the Links and Grove Areas. It greatly benefits my mental and physical health. I get a huge amount of pleasure from observing nature – there's much to see including historic woodland, flora and fauna and there are many established habitats here too.

As a resident of Musselburgh, I'm really concerned by a number of things that will impact not only me but other people and nature in a detrimental way. People depend on the environment around them for their physical and mental health, and general wellbeing" (Flood Risk Management (Scotland) Act 2009).

If the scheme is implemented - in its present form - it will severely affect not only my personal enjoyment of these areas and amenities but also the enjoyment of others, including residents and visitors to our town for many years to come. The threat to river and coastal walks and views, to our wildlife, trees and flora and fauna will affect my overall health.

I am sad that a nature based, less invasive solution has not been considered by our councillors and is excluded from the scheme. Scottish Government guidance says that a range of scenarios should be included. How could the Council judge what is necessary protection without being given a range of options? The commissioned Dynamic Coast Assessment is available to councillors now (although not the general public) and they must revisit this matter, properly review the information and look at deploying nature-based solutions as far as practicably possible. Nature-based solutions at coast should not be ruled out.

The Scottish Government is heading towards NFM. On 23 December 2023, [the Minister stated](#) "The Scottish Government recognizes the importance of natural flood management (NFM) measures in reducing, slowing or otherwise managing flood waters across catchments and along the coast while

also delivering multiple environmental benefits.” Why is ELC out of step with the Scottish Government? Surely, NFM should be at the forefront of the scheme.

NFM could include a whole range of techniques to slow the flow of the river throughout the catchments and to encourage the natural dune system along the coast. Discounted these at the start was wrong and the situation has been made worse by the exclusion of NFM (decided upon in October).

I do not wish our landscape ruined by hideous concrete walls. The proposed height of these is of particular concern as they will totally obscure the wonderful views we currently enjoy and change the character of our town forever. The height of the walls was based on SEPA’S worst case scenario (Sea level rise of c86cm by 2100). This was only a prediction, not a certainty. I have two concerns : 1) the date is too far ahead in the future to accurately predict sea level rises and 2) what if this prediction is wrong? Is that not a justified reason to pause the scheme, monitor and build appropriate defences based on fact in the future? The flood walls in Brechin (built/renewed 2015) recently failed. The flood gates in Perth also recently failed. Man-made interventions cannot prevent flooding downstream – we need to do more upstream to slow/store the water so it doesn’t rush down through the town.

We are already experiencing problems with vandalism – unsightly graffiti is appearing on existing wall space and railway bridges around our town. In the absence of adequate policing, fresh concrete walls, built as part of flood defences, will quickly turn into an eyesore and turn our lovely town into a ghetto. I would like to ask how the council will address this and if adequate funding has been made available to remedy this in the long-term?

Neither do I want our river to be changed into a canal. This will completely ruin a lovely part of the river. Furthermore, narrowing the river will not stop floods but increase flood risk.

I believe that - if the current plans are not amended there will be damaging consequences: people will be deterred from either living here or visiting our town. There will be a negative impact on tourism, our amenities, shops, and local businesses - especially the smaller ones which will decline, close down or choose not to locate here - thus affecting our local economy. House prices will be affected as values decrease. Does the council have funds to compensate us all for this detriment?

In addition, there will be a serious environmental impact as established trees are felled, ancient woodland destroyed and lost for good and established wildlife habitats annihilated. Existing wildlife, including kingfishers, otters and swans will be scared away or perish. There will be noise pollution and disruption for at least 5 years as the work progresses.

There is an important and much- loved wildlife site on and around the cobbled ramp area by the river (at the side of the Store Bridge) at the end of Shorthope Street. I was really upset to discover that this site has been chosen for a temporary compound for site works. (EIA Report – Introductory chapter Document 16). This will have a devastating effect on wildlife that gathers there and prevent public access to and enjoyment of this very special feature of our town and it needs to be protected. I would like for the positioning of this to be readdressed and for it to be relocated to a position that will have much less impact.

Other unique features that will be affected include the firehouse building, archer statue, Hayweights clock, as well as information panels and a number of memorial benches. They will all need to be relocated to accommodate the scheme. I can find no information about where they will be moved to and I am concerned that important parts of our local history and heritage will be lost. Please can councillors ensure that this is addressed.

Personally, I do not wish to live with the disturbance of constant pile-driving along the river for years and the stress that this continual pounding noise causes. In addition to the impact on wildlife, I'm also concerned by how this will affect local residents who work shifts, have trouble sleeping, and who suffer from PTSD and/or mental health problems.

I'm also worried that nearby historic and/or listed buildings and bridges, including those in the High Street & Eskside East/West areas, may be damaged by the resultant vibration. Is funding available to properly survey and protect these structures or compensate owners?

I have discovered that the banks of the Esk and Fisherrow Links are Common Good land. As such, any interruption to their use by the community should be compensated. These amenities are currently enjoyed by myself and hundreds of people on a daily basis – once the flood scheme is underway, please tell me where we should all go to benefit from being in nature and by the water?

Musselburgh hasn't been affected by flooding during my lifetime. My understanding is that the most recent flood here was in 1948! As a tax-payer, I would like to ask why Musselburgh was chosen and areas more desperately in need of flood prevention schemes weren't considered first. In our county, Haddington suffers from frequent flooding – yet there is not a flood prevention scheme in place there. I would like to know why. Other areas such as Dumfries and Perthshire are also directly affected by flooding. Surely it makes sound financial sense that when financial resources are scarce, which they are now, that they should be applied strictly in order of need.

Our core Council Services are already badly affected as money/funding becomes less available. Services like care for the elderly are suffering eg Eskgreen Nursing Home closed and hasn't been replaced and Riverside Medical Practice is failing us badly. Essential community health and well-being amenities including libraries, leisure and cultural are also struggling. Our Old Town Hall has closed, Stoneyhill Community Centre has demised while our Theatre, Venues 1 & 2 and various Arts venues have remained closed at the Brunton Hall (following a roof survey in 2023).

This latter closure has been a devastating loss for Musselburgh and East Lothian and many local arts groups are now struggling due to lack of suitable, affordable performance space in the county. Also following on from this, "The Bistro at the Brunton", another asset to our community and form of 'hub' which operated in the building for 18 years, has recently been forced to close.

Something is clearly wrong with budget and spending priorities.

Regarding finance, I'm highly concerned about the cost of the proposed flood prevention scheme. I have tried to find cost breakdowns but they don't appear to be available in the public domain for me to look at. Please can you tell me where I can find them and if they're not available for the public to view, can you tell me why?

I cannot understand why the Council voted for the scheme to be put forward, given that **no cap** has been put on the cost of the scheme and they've already been advised that the cost is likely to rise. I'm aware that The Scottish Government & COSLA working group on flooding has recognised the model of uncapped funding -known as Cycle 1- allows project consultants/developers to expand flood schemes into much larger and more costly projects. Giving carte blanche to project consultants and developers is not in our best interests and something we don't need or want for our town.

The building of the Scottish Parliament in Holyrood and the crippling escalating costs incurred and resultant public ill-feeling is an example of what can happen when a price cap is not applied and analysis of costings not carried out effectively. The tram scheme is another high profile example. Has the council not learned from these experiences?

Please advise me how you will ensure that tax-payers money is protected against inflation and additional costs without proper scrutiny of a proper cost breakdown and application of a price cap?

Finally, I do not understand why the Musselburgh Active Travel (MAT) Scheme was included in the Flood Prevention Scheme without planning permission. I think it should be excluded from the scheme. It is my understanding that all MAT elements require planning permission and - where applicable - conservation area consent. The information in its present form is confusing and difficult to understand. I am unhappy with this and would like it revisited. (All MAT proposals are deemed to be 'Developments' as defined by the Town and Country Planning (Scotland) Act 1997. Failure to obtain planning permission for all MAT related elements would be tantamount to subverting the 1997 Act. Therefore all structures and routes of MAT should go via normal planning regulations.)

The new proposed Goosegreen Bridge offers no flood reduction benefit. In addition, this bridge is without any doubt considered to be a 'Development' and not a replacement, and requires planning permission.

To conclude, I would like to state that I'm not totally against a flood protection scheme being put in place for Musselburgh – I just don't believe that this is the right one.

If the scheme proceeds in its present form without amendments I expect to be compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).

I would be grateful if you could acknowledge receipt of my letter of objection, in writing. Please advise me of next steps and timescales involved.

Yours sincerely



**From:** [REDACTED]  
**Sent:** 24 April 2024 09:19  
**To:** Musselburgh Flood Protection Objections  
**Subject:** (0474 DUPLICATE OF 0396) MFPS  
**Attachments:** MFPS\_Objection (April 2024).docx  
**Categories:** [REDACTED], Added to excel spreadsheet

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Service Manager, Governance

I lodge my submission for the above.

I handed in a signed copy of this to John Muir House yesterday(23rd), however a friend advised me that this should be done as email.

you should now have 2 copies.

Regards  
[REDACTED]

## Musselburgh Flood Prevention Scheme (2024)

### I OBJECT to the above Scheme for the reasons outlined in the following Statements

### I SUPPORT a Modified MFPS in accordance with the Postscript on page 5

[REDACTED], [REDACTED]

Tel. No. [REDACTED] Email address – [REDACTED]

I am a [REDACTED] and have been since [REDACTED]

An abbreviated statement on my CV is given on page 5

Born in [REDACTED] in [REDACTED]

School - [REDACTED], East Lothian.

Engineering Education - [REDACTED].

I was elected as a member of the [REDACTED] [REDACTED] in [REDACTED]

### **1 Background**

My involvement with the River Esk in Musselburgh, came after the Reorganisation of Local Government in 1998, when ELC became responsible for all rivers and watercourses in East Lothian together with the Coastline.

Little had been done over many years to address any problems, necessary repairs or improvements to any of these and I was tasked to review the situation.

Following a flood event in the Esk in 1990, the Lothian Regional Council undertook a Study into this event with Babbie Shaw & Morton, Civil Engineers, however no action was taken to deal with any reoccurrence.

[REDACTED] the Council to appoint BS&M (now Jacobs ) to update the 1990 Study and to advise on the way forward. The Study concluded that this should be extended and they were appointed to undertake this, with Council assistance, to carry out river and bridge surveys, as Jacobs are based in Glasgow.

The Final Report was submitted to the Council in September 2012. [REDACTED] [REDACTED]

A further Option Appraisal Report was prepared, in February 2016 by Kaya Consulting, to supplement the previous Reports

This latest Report ( 2024 ) is based on all the previous ones but the extent and cost of the Works greatly exceed what is required for an efficient Flood Prevention Scheme.

### **2 Introduction**

Following a Report in the Scotsman Newspaper (30<sup>th</sup> December 2023) regarding unexpected and massive increases in the cost of Flood Prevention Schemes in Scotland. The Scottish Government have expressed their great concern at these cost increases. In the case of Musselburgh, the cost has increased from £8.9m to £97.9m. This is an increase of £89m which, in these difficult financial times, the Council must give very careful consideration for all major Capital Projects and Council priorities, before approving this MFPS.

The Musselburgh Courier, in its edition of 25<sup>th</sup> January 2024, published, as its main story, an article on the MFPS with a revised Cost Estimate, for the total Scheme, of £132.5m.

It stated that the Council had given Outline Approval for the Scheme, without the design being finalised!.



It also revealed that the Council had acquired the Sea Wall at the Ash Lagoons and as owners, are now required to maintain it to retain Fly Ash and to repair the wall, in perpetuity!. It is most unlikely that The Scottish Government will provide any Grant Aid for any repairs to this structure.

The Scottish Government however will provide a grant to cover 80% of the Scheme costs, provided that the works meet their requirements, but they may not cover the cost of any repairs or neglect. These will require to be met by the Council.

### **3 Financial Considerations – East Lothian Council**

Obviously this Scheme is now running completely out of control and it is absolutely necessary for the Council to reappraise it, as a matter of urgency, in the light of this alarming Estimated Cost increase. Further Costs will no doubt be incurred, as the design has not been completed and the timeline for the commencement of the works is further delayed.

Before undertaking any further work, the Council are advised to seek reassurance from the Scottish Government, that they will provide 80% Grant Aid towards the Total Cost of the Scheme as a whole.

To allow the Council to fully discuss the Scheme with the Scottish Government, they may be required to provide the following documents to them, prior to any discussion or meeting.

- A realistic Estimate of the Total Cost of the Scheme, based on 2024 prices.
- A complete list of all the proposed major items of work, including cost estimates and priorities
- A copy of the latest Report. (Final )
- Undertake an independent Peer Review of the Technical Aspects of the Scheme

### **4 Other Important Considerations**

Apart from Musselburgh, East Lothian has many towns and villages which require a degree of flood protection, in particular Haddington , which has suffered serious flooding events even to a greater extent than Musselburgh and it is, hopefully, on the list for a Flood Protection Scheme.

In addition, East Lothian has a long and exposed coastline, where many towns, villages and important infrastructure will require protection, if sea levels rise, in accordance with current sea level rise predictions.

### **5 Riverscape**

The River Esk has been and still is an important focal point in the centre of the town and although constrained by training walls along much of its length, the variety of bridges make up for this, in particular the iconic New Bridge, designed by John Rennie, a famous Engineer who was born in East Linton.

The mature trees lining the manicured river banks are a very important feature in the town and it is important that they are retained, even if they will be close to any proposed flood defences. The defences will require to be designed to suit [REDACTED]

## **6 Musselburgh Flood Protection Scheme**

How long will the construction take before the Scheme becomes fully operational?.

Will the Works be phased to ensure that people in vulnerable areas are given early protection?

Has SEPA been involved in the preparation of the Scheme?.

In addition the number of properties at risk of being flooded in recent Reports varies from 2500 to 3200, this will of course effect the Cost/Benefit Analysis for the Scheme and threatens its viability.

## **7 River Design Flows**

It is understood that the river design flows, used for the latest Report, are not in accordance with the agreement reached with SEPA, Jacobs and ELC, at a meeting held in the Perth SEPA Offices in 2012 and prior to the finalisation of the Musselburgh Flood Study, dated August 2012 ?.

It was decided by all parties at the meeting, that the SEPA Gauging Station, installed in 1961, with a full data history and sited in Musselburgh, was better suited to be used for the design of the Works, rather than a Flood Estimation Handbook Pooling one, which had previously been considered, but giving much higher flow estimates than for the SEPA Gauging Station, which records actual flows entering the town.

It appears that in the latest Scheme Report the author has decided to ignore the findings of the meeting held in 2012, which formed an important part of the Final Report of 2012 and used Hi-flow data instead.

Their baseline is 1990 and any record earlier than this is ignored. The reason given for this is the presumed .‘rebound of mine water’, after the closure of Monktonhall Colliery. ( please see later notes )

The Median Annual Flow (QMED) measured in cumecs (cubic metres/second), is the foundation for designing a Flood Defence. In this instance the Hi-flow is 87 cumecs. The actual flow measured at the SEPA Gauging Station is 71 cumecs, an increase of 24%. On several occasions the date and Hi-flow values, shown in the Report, is not recorded at the SEPA Gauging Station.

A reduction of this magnitude may not require Reservoir Flood Storage, as envisaged by the Author.

This throws doubt on the basis of the design of the Flood Defences and indicates major modifications to the design, with resulting Cost Savings.

Has SEPA been consulted and agrees with the present proposals?.

## **8 Combined River & Tidal Flooding**

The flow in River Esk is influenced by the tides twice per day and a Joint Probability of Exceedance Analysis is required to check the likelihood of this occurring during the estimated lifetime of the Flood Defences. In general this is unlikely, but a check is required. The duration of any tide at its highest point is an hour, at most, before it ebbs.

The Esk is tidal up to the New Bridge during the max. Annual Spring Tides in the Spring and Autumn.

North Sea Storm Surges can occur but are impossible to predict. In 1953 there was a major North Sea Storm Surge on a high Spring Tide, which severely damaged Canvey Island and the Netherlands, killing many. I cannot find any evidence of flooding in Musselburgh at this time.

Global Sea Level Rise Predictions have not been proven to affect the Firth of Forth, to date.

## **9 Monktonhall Colliery – Mine Water Control and Mine Water Rebound**

The sinking of the two shafts commenced in 1954. After completion of the head frames, surface infrastructure and buildings, coal production commenced in 1964.

Ingress of water was a major problem throughout the life of the Colliery and strict control was constantly required, with efficient pumping, during development and to keep the mine operational. Mine water was pumped to reed beds for settlement. Before being discharged into a nearby burn, it was mixed with a finely ground limestone powder, to reduce its acidity. The treated water was conveyed, under gravity, to the River Esk, discharging into the river at the dog leg, upstream of the weir at the former Paper Mill and well upstream of the SEPA Gauging Station.

The Colliery ceased production in 1997 but much work was still required to secure the site, to demolish buildings, structures and the shafts infilled. The two shafts were infilled with rock aggregate, one to the surface, where rising water runs into settlement ponds and the other is capped 40ft below the surface, with the concrete plug, extending to the surface. Pumping ceased in 1998.

As the concrete lined shafts were over 930m deep, it can be expected that any mine water, rising from workings at this depth, would be recorded at the SEPA Gauging Station and will have ceased after a few years.

## **10 Predicted Sea Level Rise**

As it is most unlikely, if ever, that the full extent of Global Sea Level Rise will be experienced in the short or medium term, along the East Lothian Coast, therefore it may be prudent to delay the construction of any major permanent works, deemed to be necessary, until the Rate of Rise, if any, is confirmed by local monitoring.

## **11 Reservoirs**

Are the two Scottish Water owned reservoirs, which are located in Midlothian and presently being considered for upstream flood water storage, covered under the Reservoirs Act?. Does SW agree with the proposed works.

Will the Council be involved in the maintenance or costs of maintaining the reservoirs?.

In the event that Scottish Water wish to dispose of the reservoirs, it would appear that the Council will be required to acquire them, as they would form an essential part of the MFPS, with unavoidable Revenue Costs.

Will Midlothian Council benefit from the adaption of the reservoirs to store flood water and, if so, should they share the cost?.

## **12 Ash Lagoons**

The ash retaining wall, fronting the sea, has been transferred to the Council, therefore is owned by Council. It is the owners responsibility to maintain it in an excellent condition to retain the pulverised fly ash, which was deposited in the ash lagoons for the economic operation of the Cockenzie Coal Fired Power Station. This is a major liability and the responsibility for this must now remain in perpetuity, with the East Lothian Council.

If any flood prevention works are required at this location, these should be positioned on Council owned land, but not on the ash lagoons.

**13 Musselburgh Mill Lade & Pinkie Burn**

I have a plan of Musselburgh, dated 1824, which clearly shows the routes of the Mill Lade & Pinkie Burn.

The Mill Lade powered 18 water wheels along its course, making Musselburgh an important Industrial and prosperous Town, on the East Coast of Scotland.

The Lade runs from the weir, at the site of the former Paper Mill, to discharge into the Esk, just downstream of the Goose Green weir. It no longer serves any useful purpose other than acting as a surface water drain and providing fresh water to irrigate the Race Course, gratis! There are other ways.

The Pinkie Burn is connected to the Mill Lade at a manhole in Balcarres Place. There is also a large dia., unused, pipe running from the Paper Mill site to connect to the Mill Lade at its outlet.

All outlets to the Esk should be provided with automatic valves with manual override facilities.

**14 Postscript**

Any Public Funds allocated for a Flood Protection Project must be used for this purpose only.

Any additional considerations involving modifications to the Proposals, to accommodate other interests which affect the overall Cost of the Project must be funded separately eg. the provision of 5metre wide cycleways, where none exist today.

This will involve the production of 2 Cost Estimates.

- 1 The Flood Prevention Scheme, as required, to protect the Public, Businesses, Infrastructure and Public Utilities etc. from Flooding.
- 2 All items listed under 1, but including any additional items not required for Flood Protection.

**15 Abbreviated Version of [REDACTED] CV.**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



**Subject:** (0475) Objection  
**Sent:** 24/04/2024, 09:20:53  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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To Whom it May Concern,

I am writing to you to raise my objection to the proposed Musselburgh flood protection scheme. I have lived in [REDACTED] and as a keen naturalist, one of the first places I visited was the River Esk mouth and the seawall off Levenhall Links. It was amazing to see so many shorebirds and seabirds in one place, many of which are rarely seen in the majority of coastal sites in the UK. I continue to make regular visits to the area as I now work only [REDACTED]. I regularly speak to people visiting the site from other parts of the UK on their way to or from visits to other Scottish wildlife hotspots, as the River Esk mouth is well known among the birding community throughout the UK. I'm sure other local naturalists will have provided more detailed records as evidence of the importance of the site to overwintering, migrating and breeding species. This surely is a natural asset to the region that should be preserved, if not improved by further management, which appears to have been taking place with the recent construction of the new scrapes just inland of the seawall.

It is therefore horrifying to hear that elements of ELC are contemplating a prolonged construction program at the site. Many species here are very sensitive to disturbance and will certainly disappear during the construction and potentially never return. The arguments for this work are highly tenuous, with such hard engineering approaches to flood management largely seen as outdated, flying in the face of the Scottish government's current approach to adopt natural flood management policy, i.e., "Natural flood management involves techniques that aim to work with natural hydrological and morphological processes, features and characteristics to manage the sources and pathways of flood waters. These techniques include the restoration, enhancement and alteration of natural features and characteristics, but exclude traditional flood defence engineering that works against or disrupts these natural processes". In addition, such an approach is very expensive, with apparently no cap or assurance that the predicted costs will not rise out of control, as is typical for most publicly funded construction projects. At a time when public finances are already stretched, this approach is irresponsible when more cost effective alternatives exist.

Of particular concern is that these decisions are being made without the proper evidence being available, with a Habitat Regulations Assessment not published and the Environmental Risk Assessment seemingly woefully inadequate and ignoring the data accumulated over many years by the local birding community. It is a wonder what the incentives are to pursuing this approach. The only beneficiaries would seem to be the engineers and contractors paid to do the work. I would urge any impartial decision makers to carefully consider all the evidence from all sources, and be aware that once the construction starts, the damage cannot be reversed.

Yours sincerely,

[REDACTED]

\*SAIFF (2011). What is meant by restoration, enhancement, and alteration under the Flood Risk Management (Scotland) Act 2009. Edinburgh: Scottish Advisory and Implementation Forum for Flooding.

**Subject:** (0476 NO ADDRESS) Strong Objection  
**Sent:** 24/04/2024, 09:26:27  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections

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**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** NO ADDRESS

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To whom it may concern,

I would like to express my strongest objection to the current intention to build walls under the guise of flood protection. I whole heartedly believe there is a more suitable approach that can be and should be taken. I have lived in Musselburgh my whole life and it is an absolute tragedy if this destruction of our town is allowed to go ahead.

Regards  
[REDACTED]

**Subject:** (0477) Submission to Musselburgh Flood Protection Scheme consultation

**Sent:** 24/04/2024, 09:28:57

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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Dear Mr Grilli,

I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024 (the Scheme).

My name and address are:

[REDACTED]

Coastal defences and Dynamic Coast erosion report

I object to the current proposals from the mouth of the Esk to the Brunstane Burn (work sections 6-16) on the grounds that the expert report commissioned by ELC from Dynamic Coast, which was not available to Councillors when they voted on the Scheme, makes clear that there is a "wider and currently unaddressed future erosion risk... that may threaten the Scheme's proposed defences and other assets along the town's frontage". This report was clear that further action will certainly be required in order to protect the new defences from erosion, but the Proposed Scheme gives no indication of what this might be, including costs, feasibility, or environmental impact over the long term. Rather than proceed with the Scheme as planned, which did not take this into account, our council and community should consider ways to address both flood risk and coastal erosion together.

Committing East Lothian Council to a particular line of defence for the next 100 years fails to provide the "managed, adaptive approach" that the Scottish Government advises must be taken in areas of coastal change and which the Scheme's own design statement claims to follow. It also puts unnecessary constraints on the Council's Coastal Change Adaptation Plan, which is being carried out this year, and which will now have to work around a fixed line of defence without consideration of alternatives, in contradiction to the guidance issued by the Scottish Government around these Plans.

The rate of erosion predicted by Dynamic Coast along the Musselburgh coastline contradicts the assumption that the defences will last for 100 years. The report's analysis of erosion on the proposed flood defences showed "direct impact is likely to occur relatively soon, most likely 2030-2040 but potentially earlier" (p.25). This undermines many key aspects of the case for the Scheme:

- The project fails to meet one of its initial stated environmental objectives: that "the scheme will consider the impacts of climate change" (EIA §4.1).
- It directly contradicts the statement in the Environmental Impact Assessment (§12.1) that Scheme assets "have an inherently low vulnerability to climatic factors and the likely variation in these due to climate change. Consequently, this aspect of the climate change assessment is not considered further in this chapter and the focus is on assessing GHG emissions and their potential impact on climate". Thus, this chapter, as applied to these sections of the proposal, is inadequate and cannot be considered to fulfil the legislative requirements.
- The estimates of benefit to cost ratio are now incorrect. Undermining of the proposed coastal defences here will incur much greater maintenance costs (and currently unaccounted for emissions) and likely reduce the standard of protection.

Biodiversity

I object to the current proposals on the grounds that the loss of ancient woodland is unacceptable and the mitigations proposed do not make up for it.

The EIA states that 0.33 hectares of ancient woodland will have to be felled in construction of the scheme, while also highlighting that NatureScot has described such habitat as an 'important and irreplaceable national resource' (§7.42). Further efforts must be



made to avoid this loss during the construction period, in particular, at Pinkie Playing Fields where the ancient woodland is used for forest school and otherwise available to school pupils for their wellbeing and education.

I object to the current proposals on the grounds that the biodiversity enhancements are not strong enough and further commitments are needed, e.g. catchment biodiversity improvements and consideration given to installation of a rock ramp for Eskmills Weir. The biodiversity enhancements, as required by NPF4, should be far more ambitious and should include some 'traditional' Natural Flood Management actions such as tree-planting, pond creation or leaky dam structures in the catchment (these actions being included under biodiversity enhancement in recognition of the fact that their flood reduction impact is uncertain and therefore cannot be the main justification for their inclusion).

Further biodiversity enhancements relating to the River Restoration project should be included within the town of Musselburgh, including work to improve the water quality of the Mill Lade and Pinkie Burn (both assessed as limited ecological value in the EIA, Ch7), and the installation of a 'rock ramp' for fish passage at Eskmills Weir, as recommended by Forth Rivers Trust as 'having many benefits over other types of fish passage'.

#### Concerns over Contribution to Climate Change

I object to the overall carbon impact of the Scheme as it stands because the proposed mitigations in the Environmental Impact Assessment (Ch 12) are all described as 'potential' actions, or actions that 'could' be explored through the proposed Carbon Management Plan. While the EIA gives a range of positive suggestions, without a robust means of enforcing them there is a significant risk that they will be seen as optional.

At a minimum, adherence to the CMP must form part of the procurement process for all contractors. Further, the sustainability credentials of contractors should carry some weight through that procurement - for instance, a company with a large proportion of electric vehicles in their fleet might score more highly than one with all-petrol vehicles (this would be far more effective than simply training drivers in fuel-efficient driving techniques).

Until these suggested secondary mitigations are mandatory, the overall effect on Global Atmosphere – Climate from the Scheme must still be considered Moderate Adverse- Significant, and I object to it on that basis.

Yours sincerely,

[Redacted signature]

[Redacted contact information]

**Subject:** (0478) MFPS Objection [REDACTED]  
**Sent:** 24/04/2024, 09:29:13  
**From:** [REDACTED]  
**To:** Grilli, Carlo; Chief Executive; Musselburgh Flood Protection Objections

**Categories:** [REDACTED]

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24th April 2024

Service Manager – Governance  
Legal Services  
East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

[REDACTED]

Dear Legal Services

**OBJECTION** [REDACTED]

**I am writing to object to the recently published Musselburgh Flood Protection Scheme for the following reasons.**

**EIA**

1. The results presented in the EIA report from surveys of shoreline and coastal birds are not detailed enough to provide assessment of the impact of the scheme on the internationally and nationally designated sites around Musselburgh. One would not be able to judge if mitigation measures are adequate without this data. The desk study part of the baseline data collection has also been inadequate. You need both survey results and relevant pre-existing data on bird species present, and their national and local population trends, and insights into relevant behaviour. The desk study in the EIA report also fails to include useful data from the East Lothian Council Ranger service, the British Trust for ornithology (BTO) and the Scottish ornithologist's club (SOC) The EIA gives the agglomerate count figures of birds but should give species specific data. Also their data is out of date. They should have used the most recent data available up to 2022/2023 instead of 2013 to 2017.
2. There are also concerns about the accuracy of the baseline survey. It contains anomalies about the species of birds observed which makes one question the accuracy of all their information. Also counting was done when the lagoons were under construction activity in 2021 to 2023 which was not representative, and according to Nature Scot bird surveys should not take place where there is disturbance that could affect the abundance, distribution or behaviour of birds within the survey area. Surveys are still being carried out and the result of these should be waited for. The EIA report attempts to

identify and quantify loss of habitats from the scheme but it does not identify the main habitat impact of the scheme namely the loss of shoreline and intertidal habitats over its 100 year operational life.

3. Hard defence structures along the coast create 'coastal squeeze'. This impact is not even mentioned in the EIA report biodiversity chapter, let alone assessed. EIA does not meet its own commitment to give an appraisal of the future baseline without the scheme in order to assess the possible effects of the scheme if it goes ahead. Habitat loss from 'coastal squeeze' must be assessed properly. Not to do this goes against the council scheme objectives that 'the scheme will achieve as a minimum a neutral impact on the environment' and also that it will 'protect the Firth of Forth and its protected statuses'. ELC has an actual duty to protect and enhance biodiversity which cannot be fulfilled in this case without the necessary detailed bird data to assess the impact of the scheme and design mitigation.
4. There is repeated downplaying of Conservation importance in the EIA report, without any evidence for why this might be acceptable. There is no mention of the fact that many waders and waterfowl in the Firth of Forth have already suffered long term decline due to development impacts. Another example of this downplaying is the unsubstantiated claim that 'the area temporarily lost during construction constitutes a narrow linear area adjacent to the coastline which experiences high levels of disturbance from public use. This area is not considered to be an important habitat for qualifying interests of the Firth of Forth designated sites in comparison to the large expanse of sand flats along the coastline and the lagoons at Levenhall links'. There is no evidence to back up these assertions on factors such as prey availability or exposure to disturbance or any of the other influences that need to be considered in order to assess these impacts.
5. The EIA report notes that 'the improvements to the active traffic network particularly along the seawall and the proposed Goosegreen bridge may result in increased pedestrian and cyclist traffic which may create increased operational disturbance to qualifying bird species' The report makes it clear that it's uncertain whether the cycle paths will result in increased active travel in which case how can the expenditure, the additional risk of impacts on internationally and nationally designated bird sites, and the carbon footprint of constructing these two elements of the scheme, be justified without strong independent evidence that there will be sufficient active travel benefits. These two elements need to be removed from the scheme not least as there are already foot and cycle paths along the relevant sections of the scheme coastline.
6. Finally consider the impacts on recreational amenity over the construction period, specifically for birdwatching. Musselburgh is one of the most visited birdwatching sites in Scotland enjoyed by hundreds of visitors every year. This tourism and amenity value of the scheme area for birdwatching is not given recognition in the EIA report and as a result there is insufficient attention given to mitigating disruption to this activity. This is significant because the schemes construction phase could take a period of 5 to 10 years, imposing long-term damage to the area's use and reputation as an ornithology visitor attraction.

Under no circumstances must communication be in person. I insist all communication with me going forward should be via email or by post.

Please acknowledge receipt of my letter of objection via email as mentioned. Please advise me of next steps, and timescales.

Yours Sincerely,



**Subject:** (0479) Submission to Musselburgh Flood Protection Scheme consultation

**Sent:** 24/04/2024, 09:34:28

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Mr Grilli,

I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024 (the Scheme).

My name and address are:

[REDACTED]

Coastal defences and Dynamic Coast erosion report

I object to the current proposals from the mouth of the Esk to the Brunstane Burn (work sections 6-16) on the grounds that the Dynamic Coast report, which was not available to Councillors when they voted on the Scheme, states there is a “wider and currently unaddressed future erosion risk... that may threaten the Scheme’s proposed defences and other assets along the town’s frontage”.

The predicted rate of erosion contradicts the assumption that the defences will last for 100 years. The report’s analysis of erosion showed “direct impact is likely to occur relatively soon, most likely 2030-2040 but potentially earlier” (p.25). This undermines many key aspects of the case for the Scheme:

- The project fails to meet one of its initial stated environmental objectives: that “the scheme will consider the impacts of climate change” (EIA §4.1).
- It directly contradicts the statement in the Environmental Impact Assessment (§12.1) that Scheme assets “have an inherently low vulnerability to climatic factors and the likely variation in these due to climate change. Consequently, this aspect of the climate change assessment is not considered further in this chapter and the focus is on assessing GHG emissions and their potential impact on climate”.
- The estimates of benefit to cost ratio are now incorrect. Undermining of the proposed coastal defences here will incur much greater maintenance costs (and currently unaccounted for emissions) and likely reduce the standard of protection.

Biodiversity

I object to the current proposals on the grounds that the loss of ancient woodland is unacceptable and the mitigations proposed do not make up for it.

The EIA states that 0.33 hectares of ancient woodland will have to be felled in construction of the scheme, while also highlighting that NatureScot has described such habitat as an ‘important and irreplaceable national resource’ (§7.42). Further efforts must be made to avoid this loss during the construction period, in particular, at Pinkie Playing Fields.

I object to the current proposals on the grounds that the biodiversity enhancements are not strong enough and further commitments are needed, Further biodiversity enhancements relating to the River Restoration project should be included within the town of Musselburgh, including work to improve the water quality of the Mill Lade and Pinkie Burn

I object to the overall carbon impact of the Scheme as it stands because the proposed mitigations in the Environmental Impact Assessment (Ch 12) are all described as ‘potential’ actions, or actions that ‘could’ be explored through the proposed Carbon Management Plan. While the EIA gives a range of positive suggestions, without a robust means of enforcing them there is a

significant risk that they will be seen as optional.

Until these suggested secondary mitigations are mandatory, the overall effect on Global Atmosphere – Climate from the Scheme must still be considered Moderate Adverse- Significant, and I object to it on that basis.

Yours sincerely,

[Redacted signature]

[Redacted contact information]

**Subject:** (0480) objection to the proposed Musselburgh Flood Protection Scheme 2024

**Sent:** 24/04/2024, 09:34:28

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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24th April 2024

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

Dear Sir / Legal Services

I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024. I have an interest in the land affected because I regularly ride my horse on the bridle path that will be decimated by the construction of the debris catcher across the Esk on the west side of the overbridge that carries the A1 dual carriageway and the works to construct access roads to the debris catcher.

These are my reasons for objection to The Scheme:

1/ Disturbance: The construction traffic and all maintenance vehicles will be using a narrow quiet road that I use to ride my horse on for my mental and physical health and wellbeing. This will cause a noise and dust nuisance to me which does not currently exist.

2/ Traffic Generation: The road the debris catcher construction traffic and subsequent debris catcher maintenance traffic propose to use is a narrow private road and used by horse riders, walkers with prams and small children, the movement of livestock, a low volume of cars accessing the livery yard and light farm traffic. It has a speed limit of 10mph. Vehicles must not pass horse riders or horses being led any faster than 10mph. Using this narrow private road for heavy construction and maintenance vehicles will put the other road users at risk and will create a health and safety issue. It will also damage the already fragile road surface.

3/ Unnecessary cost: I really object to tax payer money being wasted to create a new access road to the Esk when there is already a fit for purpose, flatter tarmac access road from Cowpits Road. The proposed site of the debris catcher currently has no access for vehicles of any sort. It is an unsurfaced rural path and totally unsuitable for heavy vehicles. The plans show the access road will need to be constructed over a soft grass livestock field, then through an ancient and well established woodland, down a steep fragile river path that is not robust enough to support heavy construction vehicles and subsequent heavy machinery and vehicles needed to clear the debris catcher. The entire river banking would need to be reinforced before it could be used for this purpose. There is already an asphalt access road to the Esk in Grove which has easy access from Cowpits Road. Therefore a cheaper and less damaging option would be to place the debris catcher to the east of the A1 dual carriageway over bridge, in the vicinity of the railway over bridge and use the existing asphalt access track/road along the Grove to construct the debris catcher and subsequent debris removal. However removing any type of debris catcher from the scheme is the best option because wherever one is constructed, there will be an unacceptable cost and it will cause flooding in the areas upstream where there was previously none. It simply shifts the problem and does not provide a solution.

4/ Environmental Impact: The construction of the access road for the debris catcher will result in the loss of grazing land. The construction and extraction process will disturb and worry the livestock. It will damage and destabilise the fragile high river bank path resulting in landslips.

Hundreds of trees and the natural path will need to be destroyed in order to build a road wide enough for the construction and debris extraction vehicles. The destruction of trees and natural habitat will be damaging to the wildlife in this location. There are deer, foxes, hare, buzzards, bats, squirrels, possibly badgers and other creatures too numerous to list in this woodland. In this world of climate change activists we are supposed to be saving trees not destroying them for a poorly designed flood protection plan that is likely to cause more flooding and

environmental damage than if no action was taken at all. It is an absolute disgrace that the designers have concluded that it is acceptable to destroy this area of natural beauty and the wildlife that occupies it when the proposed debris catcher will actually do more harm than good. The proposed mitigation plans are woefully inadequate and poorly thought out,

5/ Flood Risk: Common sense and logic would make a sensible person conclude that the proposal to narrow the river in Musselburgh is more likely to cause flooding in Musselburgh and also damage the environment by causing areas upstream to flood. This will increase erosion and cause multiple landslips along the already fragile and crumbling Esk Valley.

Additionally my experience of debris traps is that when they are blocked and a dam is formed, there are never any Council resources available to deal with the blockages in a timely manner and the surrounding areas become severely flooded. The debris catcher will ensure more areas along the Esk will be flooded than before. The plans for a debris catcher should be removed completely from the scheme.

6/ Loss of Amenity / Health and Well Being: The construction works would be detrimental to my mental and physical health and wellbeing. The proposed site of the access road and the debris catcher will spoil my enjoyment of the countryside. I ride my horse on this woodland bridle path and ford the river at this point several days a week. Building the access road and debris catcher in this location would rob me of this healthy activity. There are around a hundred or so horse riders that regularly ride horses on the bridle path and ford the river. Robbing them of this natural path and the ability to ford the river to enjoy the bridle path on the opposite side will negatively affect their health and wellbeing too.

The Musselburgh Flood Protection Scheme design has conveniently ignored the requirements for horse riders of which there are hundreds in the local area. The design of the scheme and its active travel plans excludes and discourages horse riders the majority of whom are women and children. The loss of amenity for horse riders must not be ignored and the scheme should be redesigned so horse riders are included and catered for.

7/ Lack of Consultation: There has been no attempt to communicate the proposal for the access road and debris catcher to those who access the Dalkeith Park Estate from the Monkton Gate from Old Craighall. There has been information available at the Whitecraig Gate. Why was the same information not provided at the Monkton Gate where the impact of the Scheme is going to be much more damaging and serious?

Yours Faithfully

A large black rectangular redaction box covering the signature area of the letter.