



**MINUTES OF THE SPECIAL MEETING OF
EAST LoTHIAN COUNCIL**

**TUESDAY 30 SEPTEMBER 2025
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
AND VIA HYBRID MEETING FACILITY**

Committee Members Present:

Councillor S Akhtar	Councillor L Jardine
Councillor E Allan (R)	Councillor C McFarlane
Councillor R Bennett	Councillor C McGinn
Councillor L Bruce (R)	Councillor G McGuire
Councillor C Cassini	Councillor S McIntosh
Councillor D Collins (R)	Councillor K McLeod (R, pm)
Councillor F Dugdale	Councillor J McMillan (Convener)
Councillor J Findlay	Councillor L-A Menzies
Councillor A Forrest	Councillor B Ritchie (R)
Councillor N Gilbert (R)	Councillor T Trotter
Councillor N Hampshire	Councillor C Yorkston

Council Officials Present:

Mr L Rockey, Chief Executive
Ms L Brown, Executive Director for Education and Children's Services (R)
Ms S Fortune, Executive Director for Council Resources (R)
Ms H Barnett, Head of Corporate Support
Mr K Dingwall, Head of Development
Ms E Dunnet, Head of Finance (R)
Mr E John, Head of Communities
Ms N McDowell, Head of Education (R)
Ms W McGuire, Head of Housing (R)
Mr T Reid, Head of Infrastructure/Project Senior Responsible Owner
Ms E Barclay, Democratic Services Assistant
Mr S Cooper, Service Manager – Communications
Mr C Grilli, Service Manager – Governance/Project Legal Adviser
Mr C Price, Senior Project Manager
Mr A Stubbs, Service Manager – Roads/Project Executive

(R) = remote participant

Visitors Present:

Mr J Baxter, Senior Supplier's Manager, Jacobs

Clerk:

Mrs L Gillingwater

Apologies:

None

The Convener advised that the meeting was being held as a hybrid meeting, as provided for in legislation; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. He noted that the Council was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for five years from the date of the meeting.

The clerk recorded the attendance of Members by roll call.

Transparency Statement: Councillor McIntosh advised that her children attended Pinkie St Peter's Primary School.

1. MUSSELBURGH FLOOD PROTECTION SCHEME: PRELIMINARY DECISION ON PROPOSED SCHEME

A report was submitted by the Executive Director for place advising that in accordance with the Flood Risk Management (Scotland) Act 2009 ('the Act') and the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010 (as amended) "the Regulations", full Council was required to consider all valid objections, late objections that had been accepted, and Environmental Impact Assessment (the "EIA") representations received in relation to the notification of Musselburgh Flood Protection Scheme ('the Scheme') on 21 March 2024. The report also sought a preliminary decision by the Council.

The Provost announced that three amendments to the report recommendations had been submitted.

Tom Reid, the Head of Infrastructure and Senior Responsible Owner for the project, presented the report. He highlighted the need for a flood protection scheme for Musselburgh given the risk of flooding to the town, and he set out the progress made to date in devising such a scheme. He drew particular attention to public interest in the proposed Scheme and the process for dealing with objections. He updated Members on recent developments, noting that Historical Environment Scotland had now withdrawn its objection to the proposed Scheme, and that it was expected that agreement would be reached with Nature Scot. Mr Reid stressed that the Council was not being asked to approve the Scheme at this stage, noting that it would come back to Council for approval on conclusion of a Public Local Inquiry.

There followed a series of questions from Members, in response to which officers advised of the implications for Musselburgh in terms of flood risk should the Scheme not go ahead; the costs associated with the Scheme, the funding arrangements, and opportunities for other funding contributions; the project timetable; the procurement process; addressing the objection of NatureScot; the implementation of the fifty-four changes to the Scheme; the potential disruption to residents during the construction phase; the proposed defences to the rear of homes on Edinburgh Road; and the impact of the Scheme on biodiversity, trees and wildlife.

The Provost invited Councillor McIntosh to present her amendment (Amendment 1):

Delete Recommendation 2.3 and replace with: Makes a preliminary decision to refuse the proposed Scheme and for officers to bring forward a new proposed Scheme which would change the climate change allowance on the coast to

Scenario 2; instructs the project team to make arrangements as required under Schedule 2 of the FRM (Scotland) Act 2009, to notify all objectors and other relevant people of this decision and give them the chance to make representation; and instructs officers to arrange a date for this Council to reconvene to consider any further representations made in response to this modification, to then take a decision on confirming the Scheme with or without that modification.

Delete Recommendations 2.4 and 2.5
Renumber Recommendation 2.6 as 2.4

Councillor McIntosh presented the amendment. She stated that it had not been her intention to refuse a flood protection scheme, but that she had wanted to modify the Scheme as proposed, in particular Scenario 4 for the coastal defences. She was disappointed that she was not permitted to put forward a significant modification at this time. Councillor McIntosh was of the view that the existing Scheme was not a sustainable solution, would generate significant emissions during the construction phase, and did not protect nature. She was also concerned about the potential costs of the Scheme.

Councillor Bruce seconded the amendment. He voiced his disappointment that there was no opportunity at this stage to propose modifications. He was critical of the process and concerned about the increased cost of the project.

The Provost then invited Councillor Jardine to present her amendment (Amendment 2):

Recommendations 2.1–2.6: as set out in the officer report.

Add new recommendations, as follows:

2.7 Instructs officers to commission an independent cost and benefit review of the Scheme, to be completed prior to contract award, with findings reported to Full Council to ensure compliance with Best Value duties.

2.8 Further instructs officers to prepare and present to Full Council, prior to contract award, a Managed Adaptive Approach Plan, building on the Managed Adaptive Approach referenced in the report, to include:

- Defined decision triggers (e.g. sea-level rise, fluvial thresholds, asset condition) that will prompt review of future adaptation measures;
- A monitoring programme and arrangements for publication of data to support transparency and decision-making;
- Design-for-future provisions within the confirmed footprint, enabling later heightening or adaptation without further land requirements;
- Safeguarding of space required for possible future increments;
- A five-year review cycle and governance arrangements for considering adaptation options.

2.9 Requests that officers provide regular update reports to Full Council at key design gateways, to assure members and the community of progress against these commitments.

2.10 For the avoidance of doubt, confirms that these requirements shall not reduce the standard of protection delivered by the confirmed Scheme, and any future option that would materially alter the confirmed works shall be brought forward through the appropriate statutory process.

Councillor Jardine presented the amendment, which she believed would strengthen the accountability and scrutiny and would avoid any delays to the process. She noted that the SNP Group recognised the importance of the Scheme and the need to act with urgency. She called on the Council to demonstrate leadership and responsibility and support her amendment.

Councillor Menzies formally seconded the amendment.

The Provost then invited Councillor Hampshire to present his amendment (Amendment 3):

Replace Recommendation 2.5 with: To ask the Scottish Ministers to consider this proposed Scheme in accordance with Paragraph 7 of Schedule 2 of the Act, which will involve a Public Local Inquiry being held, and thereafter the Scottish Ministers taking the final decision.

Councillor Hampshire presented the amendment. He stressed the need for the views of the community to be heard, given the number and range of objections submitted, and he noted that it was unlikely that any further modifications would address those objections. He felt that a Public Local Inquiry would provide an opportunity for the community to contribute their views and would also provide the required transparency and scrutiny of the Scheme. He added that his amendment would not result in a delay.

Councillor Bennett seconded the amendment, pointing out that the proposed Scheme offers a solution to manage the flood risk to Musselburgh. He agreed with Councillor Hampshire that the community should be given an opportunity to put forward their views on the Scheme by way of a Public Local Inquiry.

There followed a debate, with Members recognising the need for a flood protection scheme for Musselburgh. There were concerns raised about the increasing costs of the proposed Scheme, and some Members expressed their disappointment at not having the opportunity to propose modifications at this stage. The concerns of the public were also highlighted. However, the proposed Amendment 3 added scrutiny around process, and this was welcomed, as was the opportunity for the community to put forward their views should there be a Public Local Inquiry.

Members of the Administration suggested that they would be happy to combine their amendment (Amendment 3) with Amendment 2. However, the SNP Group declined this offer, on the basis that they felt there was no need to request a Public Local Inquiry and that it should be the Council rather than Scottish Ministers who should take the final decision on the Scheme.

The Provost then moved to the roll call vote on the report recommendations versus the three amendments:

In favour of report recommendations (0)

In favour of Amendment 1 (5): Councillors Bruce, Collins, Findlay, McGuire and McIntosh

In favour of Amendment 2 (6): Councillors Allan, Cassini, Gilbert, Jardine, Menzies and Trotter

In favour of Amendment 3 (11): Councillors Akhtar, Bennett, Dugdale, Forrest, Hampshire, McFarlane, McGinn, McLeod, McMillan, Ritchie, Yorkston

Against (0)

Abstentions (0)

With the original report recommendations receiving no votes, and Amendment 1 receiving the lowest number of votes, both proposals fell, and the Provost then moved to the roll call vote on the two surviving amendments:

In favour of Amendment 2 (6): Councillors Allan, Cassini, Gilbert, Jardine, Menzies and Trotter

In favour of Amendment 3 (11): Councillors Akhtar, Bennett, Dugdale, Forrest, Hampshire, McFarlane, McGinn, McLeod, McMillan, Ritchie, Yorkston

Against (4): Councillors Bruce, Collins, Findlay, McGuire,

Abstentions (1): Councillor McIntosh

Amendment 3 was therefore carried.

Decision

The Council agreed:

- i. to note the progress to date following approval of the outline design by full Council on 23 January 2024, and notification of the Musselburgh Flood Protection Scheme on 21 March 2024;
- ii. to confirm that it had considered all valid objections (unless withdrawn), late objections (unless withdrawn), and representations in respect of the EIA received, together with any other matters it considers relevant, and which includes the minutes of record of the meetings and all as detailed in paragraph 3.19 of the report;
- iii. to make a preliminary decision to confirm the proposed Scheme without modifications, as detailed in paragraph 3.25 of the report;
- iv. to note that, having made a preliminary decision to confirm the Scheme without modifications, the Council must notify the Scottish Ministers of that decision, as detailed in paragraph 3.26 of the report;
- v. to ask Scottish Ministers to consider the proposed Scheme in accordance with Paragraph 7 of Schedule 2 of the Act, which will involve a Public Local Inquiry to be held, and thereafter the Scottish Ministers taking the final decision; and
- vi. to confirm that the project team, working in consultation with the planning authority, should seek to deliver the fifty-four proposed changes to the proposed Scheme as detailed in paragraph 3.32 of the report.

Signed

Provost John McMillan
Convener of the Council

The webcast for this meeting will be available at the link below for five years from the date of the meeting: https://eastlothian.public-i.tv/core/portal/webcast_interactive/1014651