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Document Title	Musselburgh Flood Protection Scheme MLS report - Appendix A.5

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Additional information:

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

For Office Use Only:	
Library Reference	102/24
Date Received	18/10/24
Bulletin	Oct 24

Subject: (0106) FW: Potential compensation
Sent: 18/04/2024, 13:37:44
From: Chief Executive
To: Musselburgh Flood Protection Objections

Follow Up Flag: Follow up
Flag Status: Completed

Categories: [REDACTED]

FYI

From: [REDACTED]
Sent: Thursday, April 18, 2024 12:00 PM
To: Grilli, Carlo [REDACTED]
Cc: Chief Executive [REDACTED]
Subject: Potential compensation

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

[REDACTED]

Dear Legal Services

Having already objected to the proposed Musselburgh Flood Defence scheme, as currently planned, I wish to raise the following points directly.

Compensation

1. My property is within the designated flood map area as created by the Project consultants. Under the current scheme, as it stands, there is no allowance for the council to pay a 'pre-works' survey of my house.
2. Further to that there is apparently no mechanism of compensation in place to to compensate me if the works or related works traffic damage my property
3. 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, the Fisherrow coast and New Street. I walk daily along the coastline for health benefits. Any coastal sea defence with limited access and any scheme compound and 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 compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).

4. *“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 undermined due to my present environment (river and coastal walks and views) being threatened which will affect my mental and physical health.

Please acknowledge receipt of my letter of objection via email as mentioned. Please advise me of next steps, and timescales. Under no circumstances must any return communication be in person. I insist all communication with me going forward should be via email or by post.

Yours [REDACTED],

Verbal abuse and threatening behaviour is never acceptable. #zerotolerance

We're living through stressful times right now, and everyone's feeling it.

Our staff are doing their best to assist local residents and businesses whilst delivering essential services.

Please, be nice.



East Lothian
Council

BE NICE
RESPECT US AS WE RESPECT YOU

Subject: (0107) Objection to Musselburgh Flood Protection Scheme

Sent: 18/04/2024, 14:24:48

From: [REDACTED]

To: Musselburgh Flood Protection Objections

Cc: McIntosh, Shona

Follow Up Flag: Follow up
Flag Status: Completed

Categories: [REDACTED]

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Carlo Grilli [REDACTED]
Service Manager - Governance [REDACTED]
Legal Services [REDACTED]
East Lothian Council Email: [REDACTED]
John Muir House Date: 18th April 2024
EH41 3HA
mfpsobjections@eastlothian.gov.uk

Dear Mr Grilli,

As a resident of Musselburgh, who frequently enjoys walking along our two beaches and The Grove, I am appalled at the devastation the proposed Flood Protection Scheme will cause to the town. I therefore submit this formal objection for the following reasons:

1. When the Councillors voted by a majority, to go ahead with the proposed scheme they were presented with a synopsis of the "in house" EIA. Neither the Councillors nor the public have been given enough time to read and digest this 3400+ page document as it was only published just over a month before the end of the objection period.

2. There has been no clear understanding about the de-coupling of the Musselburgh Active Travel from the MFPS and no one seems to know what's in and what's out. As there has been conflicting information I wrote to Peter Forsyth of MAT. Here is his reply:

"The Musselburgh Active Toun (MAT) is not coming forward at this time and is not part of the Musselburgh Flood Protection Scheme ("the Scheme").

It does not extend into the boundary of the Scheme. The MAT project terminates at the scheme boundaries."

In that case, I object to the siting of the Goose Green Bridge at the Estuary, the height and design with the very large ramps on Eskside East and the 5m width.

The position and design make no contribution to flood protection and have everything to do with joining up new unnecessary cycle paths. As MAT "is not coming forward at this time" why are 5m paths still in the design of MFPS? The same applies to the Ivanhoe Bridge and siting it further up stream.

The river banks at the estuary are unstable which residents in Goose Green Crescent and Goose Green Road will confirm, as they are forbidden to extend their properties, and yet this huge bridge will be built there without planning permission. All the houses in Goose Green should be surveyed before the construction for this flood scheme begins.

3. With climate change and the drive to restrict greenhouse gasses, I object to the use of concrete walls, embankments, and foundations. The manufacture and building of these structures will release many thousand tonnes of CO2 into the atmosphere at a time when countries are working towards the Paris Agreement and aiming to cut emissions. I cannot see how this can be offset by saving a "possible" catastrophic event which "might" happen at least 50 years in the future. EIA chapter 6 page 29 assesses the risk during construction as low, therefore one would presume that the risk at the present time is also low. There is time to investigate Nature Based Solutions which are cheaper and less damaging to the environment.

4. I object to the walls along Fisherrow Sands and Back Sands as the Dynamic Coast report has stated that the walls will encourage erosion and NBS should be employed in the bay and on the sands and dunes.

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

Yours faithfully,

Signed [REDACTED]

Printed [REDACTED]

CC Shona McIntosh smcintosh@castlothian.gov.uk

Sent from my iPad

Subject: (0108) MFPS objection
Sent: 18/04/2024, 14:54:04
From: [REDACTED]
To: Musselburgh Flood Protection Objections

Follow Up Flag: Follow up
Flag Status: Completed

Categories: [REDACTED]

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18th 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.

Fisherrow Links and Coast

1. I object to the embankment at the coast, Fisherrow Links to the Esk river mouth. The council must take independent advice and try to protect the coast using nature based solutions.
2. I object Jacobs have presented different climate scenarios. Scenario 2 at river/scenario 4 at coast. The reasoning for this is unclear and undermines the claim the flood scheme is science led. Therefore I object to the design at the coast (Scenario4) which appears to be overkill.
3. I object to the lagoons wall section as this is not necessary to protect home in Musselburgh.
4. I object to active travel path along coast at Fisherrow ON TOP of scheme defence. This path on top of the proposed defence has led to a loss of view and loss of access to the beach
5. I object to the proposed planting of a tree forest on Fisherrow links. A Scottish links is naturally open and tree planting will disrupt this environment
6. I object to the impact of the associated pollution on the wildlife and mussel beds
7. I object that there is no guarantee Fisherrow Links will not become a compound during the construction phase.
8. I also object that there is no guarantee the Mountjoy Terrace road will not be used for heavy maintenance traffic during construct phase.
9. I object to the new Goosegreen Bridge as it 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.

10. The new proposed bridge which is 5m wide is not a 'like for like' replacement of the current 1m bridge and is located in a wildlife area at the mouth of the ESK

River

1. I object because there is a lack of nature based solution in the river scheme
2. The narrowing of the river mouth could create a 'canal effect' and sea surges may flood the town. I object to the current design.
3. I object to the felling of trees to build walls/embankments along the river.
4. I object to the placement of active travel on top of embankments as it spoils the view of the river and is an invasion of privacy to those houses along the river.
5. I object to the impact of the associated pollution on the wildlife

Government/Council spending

- The scheme has expanded from £9m to over £100. The additional cost and unnecessary consultant fee could have been spent on other projects. You may contend that these are different funding 'pots' but the reality is our council's fiscal health is in decline, we have an ageing population, a declining education system, an underfunded mental health crisis in our youth, a shambolic NHS where Musselburgh residents have to phone hundreds of times to get appointments, and a declining infrastructure...potholes are an early warning indicator. These can simply not be ignored and are more important than a 1-200 year flood risk. It's your responsibility to manage this in the round, not segment the discussion.
- I object to the current scheme on the basis that no fiscal restraint has been applied to the consultants and going forward it may bankrupt our council and government. The Scottish government agrees and has asked ELC to withdraw from the current cycle 1 scheme

Consultation

- The release of documents through-out this whole period has been last minute and not allowed me time to fully understand the scheme.
- The consultants have not listened to my views and presented confusion information.

Compensation

1. I object on the basis my home is within the flood map area. It is also looking onto the proposed structures. Under the current scheme there is no allowance for the council to pay a 'pre-works' survey of my house.
2. I object because there is no clear material describing the councils mechanism to compensate me if the works or related works traffic damage my property
3. 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 exercise. I use this for sports, football, pitch & putt, the playpark. I walk regularly along the coastline for health benefits. A coastal sea defence with limited access and any scheme compound and 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 compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).
4. I object because 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.
5. *"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 undermined due to my present environment (river and coastal walks and views) being threatened which will affect my mental and physical health

Please communicate with me via email.

Please acknowledge receipt of my letter of objection via email as mentioned. Please advise me of next steps, and timescales.

Yours Sincerely,

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Subject: (0109) Musselburgh Flood Protection
Sent: 18/04/2024, 15:00:57
From: [REDACTED]
To: Musselburgh Flood Protection Objections

Follow Up Flag: Follow up
Flag Status: Completed

Categories: [REDACTED]

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18th April 2024

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

Dear Legal Services

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2. I object Jacobs have presented different climate scenarios. Scenario 2 at river/scenario 4 at coast. The reasoning for this is unclear and undermines the claim the flood scheme is science led. Therefore I object to the design at the coast (Scenario4) which appears to be overkill.
3. I object to the lagoons wall section as this is not necessary to protect homes in Musselburgh.
4. I object to active travel path along coast at Fisherrow ON TOP of scheme defence. This path on top of the proposed defence has led to a loss of view and loss of access to the beach
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9. I object to the new Goosegreen Bridge as it 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.

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2. I object because there is no clear material describing the councils mechanism to compensate me if the works or related works traffic damage my property
3. 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 exercise. I use this for sports, football, pitch & putt, the playpark. I walk regularly along the coastline for health benefits. A coastal sea defence with limited access and any scheme compound and 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 compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).
4. I object because 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.
5. *"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 undermined due to my present environment (river and coastal walks and views) being threatened which will affect my mental and physical health

Please communicate with me via email.

Please acknowledge receipt of my letter of objection via email as mentioned. Please advise me of next steps, and timescales.



From: Legal
Sent: 18 April 2024 15:55
To: Musselburgh Flood Protection Objections
Cc: Grilli, Carlo
Subject: (0110) Objections letter received 18/04/24 - [REDACTED]
Attachments: 20240418 MFPS Objection letter from [REDACTED].pdf
Follow Up Flag: Follow up
Flag Status: Completed

See attached received today.

[REDACTED]

[REDACTED] | [REDACTED] | Legal | East Lothian Council | John Muir House |
Haddington EH41 3HA | [REDACTED] | [REDACTED] or [REDACTED]

Please note my working days are Tuesday to Friday

Verbal abuse and threatening behaviour is never acceptable. #zerotolerance

We're living through stressful times right now, and everyone's feeling it.

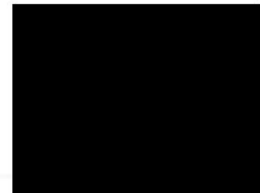
Our staff are doing their best to assist local residents and businesses whilst delivering essential services.

Please, be nice.



BE NICE
RESPECT US AS WE RESPECT YOU

Carlo Gilli
Service Manager
Legal Services
East Lothian Council
John Muir House Haddington



17-4-24

Dear Sir,

I am writing to object to the proposed Musselburgh Flood Prevention Scheme for the following reasons...

There are many areas in Scotland that are more prone to flooding, in particular Dumfries, Perth and Brechin.

East Lothian has many towns and villages which require a degree of flood protection, in particular, Haddington which has suffered serious flooding events to a greater extent than Musselburgh.

I am concerned about the adverse effect it will have on the economy. Musselburgh attracts many visitors from surrounding areas. They come to enjoy a walk along the prom or by the tree lined riverside, a unique environmental combination which will be spoiled by a barrier along the prom plus the proposed high wall on both sides of the river from the sea to the burgh boundary.

This damage to the environment will have an adverse effect on the local economy by causing a drop in the number of visitors who, at present are vital to local shops, cafes and restaurants. This could lead to possible closures of businesses in the future.

The disruption caused by the construction works will have an effect on peoples' wellbeing. I am concerned about my own wellbeing. Being retired, my main interest in life is walking and I get great enjoyment from watching and listening to the river, listening to bird song and taking in the smell of the wild garlic which grown in profusion along the river. The imposition of walls along the sides of the river will detract from all that.

Other matters of concern that I have are...

That the Council are to purchase two reservoirs in Midlothian which I understand are at present owned by the government body SEPA. In addition to the cost of purchase will be the cost of maintenance in perpetuity. This will mean an increase in the East Lothian Council Tax.

I am also at a loss to understand why the Council did not have a peer review of the Design Consultants proposals and costs of the scheme. This I would have thought a necessary and normal procedure for a project of this nature.

This project should not proceed without further consideration.

Yours Faithfully





Mr Carlo Gilli,
Service Manager - Governance,
Legal Services,
East Lothian Council,
John Muir House;

HADDINGTON EH4 3HA

ELC
CUSTOMER SERVICES
16 APR 2024

EAST LOTHIAN COUNCIL
RECEIVED
18 APR 2024
LEGAL & PROCUREMENT

RECEIVED
18 APR 2024

Subject: (0111) Objection to the proposed flood defences
Sent: 18/04/2024, 17:43:44
From: [REDACTED]
To: Musselburgh Flood Protection Objections

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Dear Service Manager

I believe the scale of the proposed flood defences are excessive because they are predicated on a once in 200 year perfect storm. If works have to be made they should be done in such a way that they can be augmented at a later date or later century.

Should the works proceed as planned, beautiful town river and coastal walks will be permanently disfigured. By way of mitigation I should like to suggest all sections of concrete wall on both sides of the River Esk be faced with rough stane dyke masonry. Not only would this reduce the ugliness of the design it would discourage the almost inevitable appearance of graffiti.

Yours sincerely

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

Subject: (0112) Objection to Musselburgh flood protection scheme
Sent: 18/04/2024, 19:16:01
From: [REDACTED]
To: Grilli, Carlo; Musselburgh Flood Protection Objections

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Categories: [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18 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.

We are currently [REDACTED]. I object to the published scheme because

- A thorough analysis of nature-based solutions hasn't been fully considered; if the river flow rate were to be reduced during periods of heavy rain via a nature-based scheme upriver, the requirement for flood defences in the town would be reduced. 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 not in step with the Scottish Government? Removal of natural flood management before council voted 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.

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 the coast should not be ruled out (as per Dynamic Coast report).

- Dynamic Coast report states beach could be lost due to seawall structure - actions to manage flood risk should not contribute to increased coastal erosion.

There is no beach nourishment plan nor budget for this.

- As a regular walker along the river Esk, I've seen numerous episodes of flooding from sewer overflow in the past 2 years near to Loretto playing fields which included sewerage, toilet paper, wet wipes, sanitary towels, cotton buds etc; the flood prevention scheme doesn't address this but if the sewers were repaired and/or upgraded, this would reduce the likelihood of flooding from the sewers. 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 and are likely to exacerbate existing flooding risk.
- Cost to the taxpayer; the scheme is currently costed at £132m in total, including £53m for the flood protection part. The Council has been told the cost is likely to rise....by how much? Why has no cap been put on the cost? As we see other council cutbacks, surely this money could be better spent on care for the elderly, essential community health and wellbeing amenities: libraries, leisure and culture (e.g. Brunton Hall repairs). In my opinion, the Council budget/spending priorities are wrong. 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.
- Murdoch Green to be used as a construction compound, blocking access to the beach. This small park is where the sea and beach first come into view as you enter Musselburgh from Joppa. It is used by many local people and visitors every week. To use it as a construction compound would result in a major loss of amenity for the local people and visitors alike
- Murdoch Green to be remodelled and access to the beach provided via a large concrete ramp; is this costly additional beach access really required when there are good facilities including beach access, parking and toilets provided at the harbour?
- The proposed new Goose Green bridge does not add flood protection to the town, if anything, narrowing of the river at that point would likely INCREASE the risk of flooding. This bridge isn't necessary as the town is well served with river crossings. At a time when we are all encouraged to take more exercise, using the existing bridges is easy for both walkers and cyclists. 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
- The project will take at least 5 years to build. It will be a major cause of disruption for all residents and likely to harm an already-struggling high street. 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.
- Walls along river - if these truly are necessary then please reduce the height and locate them close to the river to enable maximum use of the riverside area for recreation
- Trees - its well known that trees reduce the likelihood and impact of flooding so a key priority must be to preserve the beautiful trees along the river. 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.
- Bias - consultants have a vested interest in over-engineering the Scheme. 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.
- 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 the overwhelming number of other studies do not support.
- 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). Choice of year 2100 should be amended as we cannot accurately predict sea level rise that far. It could be less, or more!
- References to "enhancement of landscaping in Musselburgh" or similar are disingenuous as the proposals offer inferior landscapes, unquestionable gradually worsening through the years, with graffiti and lack of

maintenance.

- 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.
- Negative impact on tourism to Musselburgh
- "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 undermined due to my present environment (river and coastal walks and views) being threatened which may negatively affect my mental and physical health
- 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.
- My enjoyment of land will be affected by scheme and its operations.
- 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.
- 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 Murdoch Green, Fisherrow Links and Fisherrow coast. I use this regularly to walk along the coastline for health benefits. A coastal sea defence with limited access and any scheme compound and 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 compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).

Please understand that I don't want to see a single home in Musselburgh flooded but believe that the proposed plans are significantly over-engineered, there are alternative less-invasive approaches to achieve the same outcome and these should be given proper consideration.

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. Please advise me of next steps, and timescales.

Yours Faithfully,

[REDACTED]

Subject: (0113) Flood protection scheme
Sent: 18/04/2024, 21:58:03
From: [REDACTED]
To: Grilli, Carlo
Cc: Musselburgh Flood Protection Objections

Follow Up Flag: Follow up
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[REDACTED]
18 April 2024

I am writing to object strongly to the above proposed scheme.

It is a monstrous waste of money and hasn't been researched properly.

I am horrified at the number of trees reportedly to be cut down - we need our trees !!

I frequently walk along the banks of the Esk and over the years have enjoyed and appreciated the flower beds there. The thought of these being replaced by 5 METRES of CONCRETE fills me with despair. The wider the path, the faster the cyclists will ride.

Mental health issues are always in the news these days. I find walking by the river very uplifting and I think we should do everything possible to maintain our pretty, open spaces

I would find the whole project quite depressing and actually detrimental to my wellbeing and urge you to PAUSE and RETHINK

[REDACTED]

Subject: (0114) MFPS: Objections form [REDACTED]
Sent: 19/04/2024, 06:39:59
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [MFPS Objection to approved Scheme \[REDACTED\] 18 April 2024 .docx](#)

Importance: High
Follow Up Flag: Follow up
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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.

I attach my statement of objections to the Scheme published by East Lothian Council on in March 2024.

Please indicate receipt of this material by email.

Thank you.

[REDACTED]

**MUSSELBURGH FLOOD PROTECTION SCHEME:
FORMAL OBJECTIONS TO THE EAST LOTHIAN COUNCIL SCHEME**

Name [REDACTED]

Address [REDACTED]

Contact [REDACTED]

Web site [REDACTED]

Introduction

The Scheme presented to the public on 21 March 2024 for comment and objection has been revised from previous versions in the light of public concerns. Some improvements have been made, such as the use of flood gates at key points by bridges to allow public access to the riverside, lowering of defence heights along the river in accord with Scenario 2, the related reduction in the 'future proofing' from 2100 to 2050, the introduction of pumping stations to deal with heightened ground water levels, and addressing the requirements in National Planning Framework 4. However, despite this movement to deal with residents' and visitors' legitimate concerns, the revised Scheme neither fundamentally deals with the issues of lack of a holistic integrated Scheme using Nature based Solutions at the coast or within the catchment., It takes no account of the public expenditure crisis, nor the degree of uncertainty about the climate and weather changes which drive the need for the Scheme, nor the biodiversity crisis. I am therefore formally objecting to the Scheme as published. For each objection. I state the reasons for my objection, having assessed the documentation recently made available, and note my own particular legitimacy in objecting, such as property ownership and residency in an area that is identified as a flood risk, together with my knowledge, expertise and experience over 50 years.

Objection 1 Amenity, privacy and public safety arising from walkway on the proposed embankment adjacent to my property

As an affected resident living in and owning a [REDACTED] situated on [REDACTED] subject to inundation by the river and the sea, I formally object to the Scheme approved by East Lothian Council on the following specific grounds.

1. **No property based solutions for flood protection have been provided to or discussed with property owners in lower Eskside West.** A property based alternative has not been presented for consideration. This would be far cheaper, less intrusive on my amenity and health and at least as effective for this section of the river between the North High Street and New Street junctions with Eskside West than the combination of embankments and end walls proposed.
 - 1.1 **No demountable structure solutions have been provided to property owners in lower Eskside West.** These structures, widely used in other parts of Britain, could be used between the Store Bridge and the Electric Bridge to reduce the loss of amenity to residents and passers-by. These would be financially beneficial to the constrained public finances and less damaging to the amenity of my property.
 - 1.2 **The proposed embankment will have a detrimental effect on the amenity and privacy of my property.** This is the result of removal of the direct view of the river from my property and, because of a raised walkway on top of the embankment, allowing people to see more easily into my house and grounds. This loss of privacy is totally unacceptable, and the walkway must be removed from the Scheme along with lessening the width of the embankment in order for me to remove this part of my objection. There is a road with plenty of capacity for cyclists, and two pavements for walkers, so no additional capacity is justified from the active travel perspective and certainly not from the flood protection perspective.
 - 1.3 **The design of the embankment reduces the amenity and increases public safety risks.** The proposed 10.5m wide embankment is quite unnecessary and the proposed walkway on the top

risks damage to the structure, reduces amenity and increases the risk of injury to users. The structure must be redesigned so that it is narrower in cross section and without public access on the top. Public access can be gained to the river bank via the openings at the two bridges except when the flood gates are closed.

- 1.4 Alternatives to the replacement of the bridges in close proximity to my property have been dismissed by the consultants.** There will be a long period of disturbance, disruption and noise during demolition and construction of replacements. This will have detrimental effects on my physical and mental health and wellbeing which are not acceptable. The replacements are unnecessary compared with the alternatives, including a tree catcher at the exit from The Grove in the vicinity of the Olive Bank Road Bridge and fixing *starlings* to all of the existing bridge stanchions – a solution which has been used globally for centuries.
- 1.5 The rationale for the changes in type of flood barrier and its height have not been adequately assessed by the consultants and presented to [REDACTED].** The documentation states that the embankment between the Store Bridge and the Electric Bridge will vary from 1.m to 1.4m but no explanation is given in the papers of the reasons for this variation.
- 1.6 A barrier alongside the pavement on the east side of [REDACTED] should be considered.** This would allow the river channel to be wider in the event of flood conditions from the river and/or the sea. It would also be justifiably lower than the height of the proposed embankment. The health of the trees would not be materially affected as the inundation would be for a very short period of time.
- 1.7 What consideration will be given to compensation to myself as the owner of a property in the flood risk area?** Compensation can be justified specifically due to any structural damage to [REDACTED] as a result of the engineering works for embankment formation and bridge replacement in close proximity to my property. Also, I will have reduction in my amenity due to the flood structures proposed, as this amenity was an important factor in my decision to purchase the property. Also, the demolition and construction works in the proposed Scheme will affect my health and wellbeing and those of my equally aged neighbours.

Objection 2 Lack of options have been presented to the ELC Councillors and to the public

As someone with [REDACTED] experience in assessing complex programmes and as a local resident and property owner within the area identified as a flood risk, it is normal to present options to decision makers. I object to the lack of options presented to Councillors and to the public as part of the decision making process for the following reasons.

- 2.1 Other possible solutions to reducing water and debris flow in the river as it flows through Musselburgh have been dismissed by the consultants without documentary evidence to back up their recommendations.** For example, there is no evidence available to me that the consultants have considered including a tree catcher at the downstream exit point of The Grove, the fixing of *starlings* on the existing bridges to reduce the chances of woody debris building up and therefore raising the water level at the bridges. No costs for the bridge replacement compared with the alternatives itemised above have been given. Further alternatives for slowing the flow of water from the land into the streams and rivers which comprise the Esk catchment, other than the use of two small redundant reservoirs have either not been considered or dismissed by the engineering consultants. Their assessments have never been made available to the public.
- 2.2 No options were presented to East Lothian Council's Cabinet for their decision in January 2020 on the Preferred Scheme.** The papers available on the ELC's web site provide no evidence of options being presented to Councillors. They were given 'a take it or leave it' single proposal.

- 2.3 No options were presented to Councillors in January 2024.** The papers available on the ELC's web site provide no evidence of options being presented to Councillors. They were given 'a take it or leave it' single proposal.
- 2.4 Options presented to the public early in 2023 setting out 4 scenarios were dismissed after public soundings** with the reasons never revealed to justify consultants' advice and the Council's decision.
- 2.5 The EIA glosses over the options process carried out earlier in the project.** The EIA provides no details to enable the public to come to a view on what options have been identified, what was the process of deliberation and what were the criteria used to arrive at the reasons for dismissal of the options. Indeed, the papers state "to ensure all interested parties have an opportunity to comment", but where is the evidence of the papers made available to the resident population in Musselburgh of all of the options, the processes used, and who were formally consulted? It does not exist; the workshops and technical meetings appear to have been with other than?? the local residents community. These papers must be made available for public scrutiny.
- 2.6 No evidence has been presented to residents that property based solutions have been evaluated.** In any analysis of complex problems the whole range of possibilities should be evaluated and presented to the affected parties, in this case property owners along the river and at the coast. This has not been done. When challenged, the consultants apparently dismiss these suggestions as unworkable without evidence, or discussion or analysis.
- 2.7 No flood risk assessments have been made available to residents** following the iterative adjustment to the heights and types of barriers along the river side through Musselburgh.
- 2.8 Only a wall for protecting the ground landwards of the coast has been presented with passing reference to planting of dune grasses.** This is relevant to properties like my own that are downstream of the HWMOST, particularly as the advice from Dynamic Coast is that such a wall will be inundated in about 15 years' time (see the arguments below under Objection 4).

Objection 3 Totally inadequate addressing of Nature based Solutions within the Scheme in the catchment and along the coast.

As [REDACTED]

[REDACTED], I object to the Scheme approved by East Lothian Council because Nature based Solutions have been deferred until after the Scheme is being constructed despite the fact that it is now the recommended practice in river catchment and along the coast for building flood resilience .

- 3.1 The alternatives using Nature based Solutions within the catchment and along the coast have been dismissed until after the Council's Preferred Scheme has been constructed.** If undertaken as part of the Scheme then the outcome would have had a material effect on the type and scale of flood resilience measures adjacent to my property, as well as to the costs of the Scheme, and the benefits to ameliorating the effects of climate change and addressing the biodiversity crisis.
- 3.2 The consultants have dismissed a number of obvious alternatives** Specifically, there are possibilities of storing flood water temporarily in all of the existing reservoirs throughout the catchment by the state operated Scottish Water. No evidence is available to the public from Scottish Water that this has been addressed seriously. And also the placement of Nature based Solutions, such as drain blocking, tree planting, creation of leaky dams, reinstatement of the natural flood plain, all of which are used extensively in flood resilience planning elsewhere in the UK have been dismissed by the consultants without adequate assessment of the possibilities, despite recommendations by Jacobs' staff reviewing the possibilities for further investigation.
- 3.3 There is no recognition by experts who focus on hard engineering solutions of the changing position away from this outmoded approach.** The need for a change in approach is supported by the SEPA CEO and the Head of Sniffer consultancy reviewing Scottish Government Flood

Resilience Strategy. Why are the MFPS consultants out of tune with this reality and the impact it has on the design and cost of the Scheme?

- 3.4 There is no overarching Adaptive Management approach in the Scheme.** This is now best practice in river and sea inundation protection works, as evidenced in many articles in the professional engineering journals.
- 3.5 Jacobs internal report of 2018 on Nature based Solutions proposed further investigations.** This was summarily dismissed by Jacobs Musselburgh Manager.
- 3.6 The consultants claim that the proposed tree catcher is a Nature based Solution.** This is factually incorrect.
- 3.7 The consultants claim that Nature based Solutions will have limited effect on major flood event is not scientifically credible.** It is based on single study of Eddleston catchment which has not been independently verified by scientists. Whereas there are other examples in mainland Britain of the use of this approach. The consultants' advice and the Council's decision also ignores the increasing amount of credible international guidelines and case studies, for example the [IUCN Global Standard for Nature-based Solutions | IUCN](#)
- 3.8 Assessment of the use of flood plains for storing water that are not built on between the A1 bridge and the river mouth are dismissed by the consultants as inadequate for the mega flood on which the whole scheme is based.** No documentation to justify this conclusion has been made available to the public.
- 3.9 Discussions with landowners in the catchment by the consultants have not been progressed to deliverables within the Scheme.** Given the meetings that MFPS staff claimed to have had with owners and occupiers of land within the catchment it is of surprise?? that this has not led to proposed actions for NbS. Obviously, resources were available in the consultancy contract to allow these meetings, but clearly due to the proposal from the consultant to defer consideration of NbS, which the ELC uncritically agreed to, this work has not been capitalised on as part of the Scheme. Maybe, it is because of the Council's strong requirement to submit the Scheme within the Cycle 1 timescale.
- 3.10 The Scheme proposals are inadequate in considering the interaction of tides and sea water ingress into the estuary on water ponding around high water.** No evidence has been presented that assesses the river/tidal interaction in the estuary below the HWMOST on the properties adjacent to the river and below the limit of HWMOST.

Objection 4 Prematurity of the coastal defence works

As someone technically knowledgeable about [REDACTED], and reading the analysis and recommendations made by Dynamic Coast in their report, and someone who is regular user of the coast at Fisherrow, I formally object to the proposals for the sea defences in the Scheme on the following grounds.

- 4.1 They are premature without the development of the Coastal Change Adaptation Plan and the updating of the outdated Shoreline management plan of 2002.**
- 4.2 Why is scenario 4 the basis for assessment?** It is obvious from the assessment of the effect of storms over recent years, as measured by Dynamic Coast, that the predicted increases in storminess are not taken into account when it is likely to have greater impact on the erosion of and retreat of the coastal edge than sea level rise in the next decades.
- 4.3 Why is the Scheme making hard engineering proposals when the Dynamic Coast experts recommend production of an adaptation plan?** The Dynamic Coast report makes the following point "We suggest that the Council consider a range of coastal resilience measures be developed and appraised as part of ELC's proposed Coastal Change Adaptation Plan". Why is this not being considered as part of the Scheme? Why are the ELC's Scheme proposals at odds with the Scottish Government (2023) Coastal Change Adaptation Guidance? Do the Council and its consultants know better? This seems unlikely. The Dynamic Coast report also states that the

original 2002 ELC plan needs to be updated in the light of the new guidance and the new evidence of current and future coastal erosion. So why have ELC decided already on a solution which will not work within 2-3 decades? There is only reliance on a wall which if the sea reaches it could cause removal of the sand in front of it and overtopping would destabilise the ground behind it and place more pressure on the structure. The lead consultant on Dynamic Coast has made it clear to me that 'no nature based solutions should be ruled out at this stage'.

- 4.4 Why have no Nature based Solutions been assessed for reducing the risk of coastal edge retreat and loss of sand?** The Dynamic Coast report recommends the following "other important aspects to ensure effective future coastal management are also recommended to be addressed, such as community involvement and adopting a Dynamic Adaptive Pathway approach to allow flexibility with future management options and actions." Additionally, it states that "Adaptive approaches which 'jump directly' to address risks not expected until the end of the century may prove more costly in the short-term and risk losing community support". The report goes on to say that "we encourage ELC to work with communities and adaptation specialists to define what their vision of long-term adaptation looks like and outline the range of possible management approaches required to deliver this adaptation to support the desired outcomes."
- 4.5 The projections of coastal erosion and coastal edge retreat are based on sea level rise, whereas the recent erosion and retreat was a result predominantly of weather induced storm waves.** These are not taken into account, as far as I can see, in the Dynamic Coast report. The assumption in that report is that the beach will not rebuild. However, observations by coastal scientists along the east coast of Scotland shows that over time the beach rebuilds; the length of time dependent on the wave conditions.
- 4.6 Why has no modelling been done on the effects of the proposed sea wall on potential loss of beach material?** For example, the effects of undermining the beach in front of the wall and the effects of overtopping the wall on the material behind it.
- 4.7 Why has no formal review of the possibilities of beach nourishment been undertaken?** This approach is well tried and tested in the UK, including at Portobello. Assessment of the supply of sand off beyond the low water mark would provide evidence of the availability of material.

Objection 5 The Scheme is out of kilter with current Scottish Government policy

As

[REDACTED], as well as a local resident and property owner in the area identified as a flood risk, I object to the Scheme approved by East Lothian Council as it is out of step with current Council and Government policy on the environment.

- 5.1 The scheme fails to take adequately into account the three crises of climate change, biodiversity loss and public expenditure constraints.** The ELC and its consultants argue that they are working to a contract signed some years ago. However, the results of work by the IPCC and by IPBES internationally demonstrates that climate change and biodiversity crises are inextricably linked. It is not defensible that these issues are not fully factored into the Scheme. The supposed biodiversity gain measures within the river corridor in Musselburgh are merely window dressing to persuade residents to be in favour of the Scheme.
- 5.2 The Scheme fails to take into account the emerging findings from the review of the Scottish Government's Flood Resilience Strategy.** The ELC's proposals are therefore premature as the Scottish Government's Flood Resilience Strategy (with likely headline proposals for all flood resilience schemes to focus on catchment management and community participation) will not be available for public consultation until spring 2024.
- 5.3 The Scheme is premature as it has been developed ahead of the Governments' review of Water, waste water and drainage policy.** This is relevant given the importance of ground water levels and the increase in house building within the Esk catchment which increases the ground

water table level and increases the speed of runoff from previously cultivated land. The work is at an early stage with public consultation only closed late February 2024.

- 5.4 **There is no apparent assessment of the Scheme against ELC Climate Emergency policy.** This is particularly relevant to the requirements for the use of concrete, whose energy requirements and greenhouse gas emissions in its production are well documented. The amount of concrete required to implement the Scheme is estimated in the EIS. Of these estimates for concrete, 36% is required in the construction of the proposed new bridges.
- 5.5 **There is no assessment of the Scheme proposals against the Scottish Government's Just Transition to Net Zero .**
- 5.6 **There is no justification for the narrowing of the river in certain places as it passes through Musselburgh.** Indeed, this will speed the velocity and the associated turbulence of the flow at times of high river discharge.

Objection 6 The costs of the Scheme are not itemised and not justified to reduce flood risk in Musselburgh

As a national and local tax payer, as well as a local resident and property owner in the area identified as a flood risk, I formally object to the Scheme approved by East Lothian Council on the following grounds.

- 6.1 **No break down of costs has ever been presented to residents** to justify the Council Leader and CEO welcoming £96m (now estimated at 103.535m) investment in Musselburgh.
- 6.2 **Costs for the** new bridge at river mouth and replacement of Ivanhoe bridge **are unjustified** as they are not related to flood resilience, but are to meet claimed Active Travel needs.
- 6.3 **No consideration is apparent to residents of whether Historic Environment Scotland** would allow discretely placed *starlings* on upstream side of the Roman and Rennie Bridges to facilitate the passage of debris in the river.
- 6.4 **No debris catcher is proposed for the exit from The Grove** despite the fact that it would collect a considerable amount of debris from fallen trees, especially willow, and would obviate the main reason for the need to replace 3 existing bridges with single spans. The river banks downstream of the proposed debris catcher site on the Buccleuch Dalkeith Estate upstream of the A1 bridge have virtually continuous cover of trees which can in whole or part fall into the river. Hence, a debris catcher downstream of the exit from The Grove is more justified than the one in the proposed Scheme.
- 6.5 **The means of dealing with the services currently carried by the Pipe Bridge replacement is not considered.** No material is presented about the implications for and the cost of replacing the lower bridge (Pipe Bridge) which has a vitally important role in the transmission of services: gas, electricity, water and waste. What are the costs and what is likely to be the disruption to citizens?
- 6.6 **Only minimal operational expenditure appears to have been allowed for maintenance of structures for their planned 100 year design life.** This attempt at future proofing fails to understand the level of uncertainty about climate change forecasting and the consequences of weather regimes on particular events and other consequences in light of experience of flood risk from climate change, and the consequential changes along the coast and in the catchment.
- 6.7 **Residents have been given no evidence of why demountable barriers or property based solutions have been dismissed.**
- 6.8 **No evidence is available to residents of the case for strengthening existing walls,** for example at Eskmills and Newfield, rather than building additional or new walls.
- 6.9 **No evidence is available about the potential use of materials other than concrete.** Tropical hardwoods from internationally certified sources could be used rather than concrete for structures along the river or along the coast. There are suppliers in Scotland with experience of the certification, supply and use of these materials as alternatives to concrete. This would significantly reduce the environmental impact compared with the use of concrete.

6.10 The repair/replacement of the sea wall embracing the lagoons should not be included in the Scheme This is a matter of private negotiation and resolution between the private owner, Iberdrola, and the Council, on the basis presumably that the company has responsibility for ensuring the security of the sea wall and safe storage of the pulverised fly ash stored behind it.

Taking these points together has resulted in an extremely expensive solution with no alternatives given to the East Lothian Councillors when making their decision to submit the Scheme to the Scottish Government for funding under Cycle 1. This means that the effect on my property and on those who live there and on those who visit is much greater than it need be.

Objection 7 The decision is being rushed for purely financial gain

As a local resident and property owner within the flood risk area, and a local and national taxpayer it is difficult to understand the urgency of submitting the Scheme under Cycle 1 except to grab money now from the Scottish Government.

7.1 East Lothian Council appear to be determined to keep Scheme in Cycle 1 as they accept the consultants' claim that there are no resources for Cycle 2. This ignores the Scottish Government's commitment to £42m pa for life of current Parliament, a one off additional amount of £142m and the Scottish Government commitment to announcing the Cycle 2 financial allocation this year. And it ignores the First Minister's request to Local Councils through COSLA to consider moving Cycle 1 pipeline schemes to Cycle 2.

7.2 Musselburgh flood risk is lower than other places such as Perth, Haddington and Dumfries, where flooding is a regular occurrence. This means that SEPA should reassess the relative need for flood protection schemes.

7.3 The Council's decision ignores c4000 signature petition to Council to pause scheme to allow a more holistic solution to be developed in full collaboration with residents.

Objection 8 Lack of independent scrutiny of the Scheme proposals presented to affected property owners

As a local resident and property owner within the flood risk area, and a local and central government taxpayer, as well as an experienced member of the Senior Civil Service and Accountable Officer during my working life, I object to the lack of independent scrutiny of the consultants' proposals.

8.1 The consultants have publicly stated that all assessments have been done internally by Jacobs staff. All of the paperwork made available at the Brunton Hall in March/April 2024 is Jacobs 'material with no evidence of any external independent appraisal.

8.2 Standard practice used by the Institute of Civil Engineers has not been applied for dispute resolution.

8.3 Evidence of appraisal by SEPA has not been presented to residents. No independent assessment of the Scheme has been presented to either the Councillors or the public. It is entirely appropriate to use the phrase 'the consultants are marking their own homework'.

Objection 9 The consultation process is fundamentally flawed

As a local resident owning a property in the identified flood risk area affected by the Scheme proposals, I object that the 'so called' consultation process has failed to interact with and respond to the views and concerns of property owners in the flood risk areas and is out of kilter with modern consultation processes.

9.1 East Lothian Council have continued to scaremonger residents with press adverts of water depths in High Street especially at Pinkie Pillars.

- 9.2 East Lothian Council and its consultants have accused residents and property holders of scaremongering.** In fact these interests were merely using data provided in the public realm by the ELC and its consultants.
- 9.3 The consultants have scaremongered residents with continual increase in the number of properties likely to be affected by flooding.** The number has escalated from 2600 to 3200. However, in the formal Scheme proposals the number of affected properties is stated as 2037 residencies and 242 non-residential properties. No explanation of the reasons for the changes is given and gives rise to lack of trust in the consultants' work.
- 9.4 The old fashioned and outmoded top down approach to consultation** with residents has been used throughout: consultants tell us and ask for our views rather than adopting a collaborative approach.
- 9.5 Views and questions submitted by expert local residents** are never formally responded to by the consultants despite promises to do so.
- 9.6 No consultation of residents** has been allowed prior to the amended Scheme being put to East Lothian Council for decision in January 2024.
- 9.7 The Council argues that non EH21 signatories to the petition are inadmissible,** . It should be the other way round by recognising the value of Musselburgh 'place' to the wider community who visit the town because of its high amenity and attractiveness .

Objection 10 The EIA contains many inaccuracies and inadequacies, including lack of assessment of cumulative effects and the accepts that the impact on birds and their habitats will be excessive during construction phase and later given the changes proposed.

My objection is based on knowledge of assessments systems and the veracity or otherwise of the material and the way it is interpreted, as well as a local resident and property owner in the flood risk identified area.

- 10.1 The number of properties likely to be affected keeps changing without any justification.** This is a glaring example of the inaccuracy and confusion within the Council and its consultants. The leaflet delivered to houses affected, such as my own, states categorically on the front cover that the Scheme will protect in the order of 3200 properties. However, the EIA states 2037 residencies and 242 non-residential properties. Such gross differences in documents released at the same time raises questions about the veracity of any statements by the ELC and its consultants.

Objection 11 Documentation is not available to the public and apparently not to the Council to validate the consultants' decisions on many aspects of the Scheme.

Having reviewed the material publicly available and as a local resident owning and living in a property in the flood risk area, I object to the lack of documentation available for decision making by the Council and for public scrutiny on the following grounds.

- 11.1 Documentation on the options appraisal process in 2019.** I can find no documentation on the almost 100 options which the consultants claim they assessed. There is no material available to the public, and maybe not even to the Councillors, on the description of the options, the decision criteria used and the precise process of determining those options to be rejected and those taken forward.
- 11.2 No documents on the options were provided to the East Lothian Council Cabinet** when it made its most significant decision on what has consistently been termed the *Preferred Scheme* by the Council and its consultants.
- 11.3 No documents have been made available to the public about the assessment of public consultation on the four scenarios for the river and the coast.** As a result, the public have been given no evidence for the decisions by the Council for using Scenrio 2 for the river and Scenario 4 for the coast. This is so fundamental, but no justification has been set out to enable the

Council or the public to make a reasoned assessment and come to a view on the veracity of the consultants recommendations which now form the fundamental basis for the Scheme.

- 11.4 No documents setting out the options for the flood barriers in front of my property have been presented to me or to my neighbours.** Starting with a wall of varying heights, the Scheme has now iterated it to a very wide embankment without any reasons being given in writing. Nor have alternatives of, for example, demountable structures, a wall on the inner side of the riverside pavement or a property based solution been presented for consideration by property owners and residents.
- 11.5 No documentation is available to the public on the consequences of removing the trellised bridge (informally termed the Pipe Bridge)** carrying vital services including water, drainage, gas and electricity, across the river.
- 11.6 The EIA glosses over the options process carried out earlier in the project.** The EIA provides no details to enable the public to come to a view on what options have been identified, what was the process of deliberation and what were the criteria used to arrive at the reasons for dismissal of the options. Indeed, the papers state “to ensure all interested parties have an opportunity to comment”, but where is the evidence of the papers made available to the resident population in Musselburgh of all of the options, the processes used, and who were formally consulted? It does not exist; the workshops and technical meetings appear to have been with other than the local residents community. These papers must be made available for public scrutiny.
- 11.7 The cost to the public of obtaining the documents lodged for the statutory public consultation process is scandalous.** The Council cannot justify the cost of £1000 payment for a member of the public to obtain a copy of the lodged documents. This is compounded by the fact that the documentation is limited in its coverage as I state under this objection and elsewhere in my objections.
- 11.8 No documentary evidence is available to the public from Scottish Water about the use and management of the public reservoirs in the Esks catchment.** Given what has been achieved through changes in the management of reservoirs feeding into the Water of Leith on the north side of the Pentland Hills and given that Edinburgh’s main water supply is from reservoirs in the Borders Council area, especially the Talla Reservoir, it is essential that the public and the Councillors have access to Scottish Water’s formal appraisal and the opinion of SEPA on the proposals.
- 11.9 Limited availability of documentation.** The consultation documents released for public scrutiny during the March/April 2024 were only available for 6 hours on weekdays at one location in Musselburgh. They were also inadequate, as much of the backup material, as referred to earlier in this objection, was not presented. Most significantly no financial information is available to the public.

Objection 12 Incorporating active travel in the Scheme provides no benefit for reducing flood risk and is therefore irrelevant

As an active person walking and cycling locally for over 30 years and living [REDACTED] in the flood risk area on Eskside West [REDACTED], I formally object to the inclusion of Active Travel elements in the Scheme approved by East Lothian Council as being immaterial to the reduction in flood risk for the following specific reasons.

- 12.1 The Council now claim that parts of the Active Travel are no longer included in the Scheme.** This is factually incorrect, and I formally challenge this statement as the Active Travel components are in the formal documentation as part of the statutory public consultation process. The need for all of these schemes and the financial cost to the public purse has not been justified. There are plenty of options for walkers of all types and ages and cyclists to undertake active travel in , around and through Musselburgh at present without difficulty. These proposals seem to be a scheme looking for a project rather than a response to a pressing need.

- 12.2 The proposed schemes are heavily skewed towards cyclists**, but my observation of use levels is that pedestrians as walkers, pram/buggy wheelers and wheelchair wheelers are far more significant. The scheme developers need to undertake a fundamental review of the priorities of these schemes to favour pedestrians on the basis that being active out of doors benefits human health and wellbeing and should be for the majority not the minority. **Route 1** This route has very low cyclist use and makes no real sense so why is it being proposed? Specifically, Keer's Wynd is not suitable for cyclists, especially the passage through the pond where cyclists must dismount. Allowing cyclists to contraflow along Short Hope Street is nonsensical for motorists and for pedestrians who are the main users. This should be removed.
- 12.3 All of the proposals for Route 2 are sensible as this is the main route for cyclists.** But its development crucially depends on the provision of a multipurpose bridge at the New Street/ Eskside East crossing point. Any such new crossing must bear in mind the two critical uses: the utilities of gas, electricity, water and drainage which cross the river on the lower bridge at present and the pedestrian connection between lower Fisherrow and the town centre, including the important school student traffic from Loretto.
- 12.4 It is quite wrong to have Route 3 as part of the MFPS.** It is totally unnecessary to construct a new crossing of the river at the coast as is proposed, especially given the potential for a crossing where the Electric and Pipe Bridges are at present. Walkers and cyclists can easily travel up from the coastal path alongside Newfield to cross on the existing bridges. More fundamentally, it is against natural common sense, which ELC should be taking into account since it has declared a nature emergency. Such a bridge will affect the diurnal movement of birds within the estuary and will require an Appropriate Assessment under the Birds Directive Regulations by NatureScot. Such a bridge will disturb the natural movement of sediment around the river mouth which is so important to retain the net sand accumulation occurring there for many decades. The founding of the proposed bridge will make the coast much more vulnerable to erosion at those points than it is at present and exacerbate the likely future coastal erosion predictions identified in the Dynamic Coast report.
- 12.5 The proposal for Route 5 makes no sense as it fails to utilise the existing riverside path.** What is needed is to formalise the connection between QMU and the river crossing on the steel trellis bridge immediately upstream of the East Coast Mainline rail bridges. Again, the link to the MFPS is superfluous. That would avoid cyclists having to use the main route into the town from the A1 and City Bypass along Monktonhall Terrace and Eskview Terrace which is congested with cars quite justifiably parked outside their residences.
- 12.6 The proposed walkways on the top of the proposed embankments are not justified**, as stated in Objection 1 for amenity, public safety, privacy and damage limitation reasons and should be removed from the Scheme.
- 12.7 The new proposed bridge at Goosegreen is not justified as part of the flood protection scheme.** The proposal must be formally evaluated by NatureScot under the Habitats and Species Regulations for its impact on the Special Protection Area and also for its effect on sediment transfer from the river to the inshore area protected as an SSSI. It is not justified for flood protection and is not necessary for Active Travel. Furthermore, it is likely that it will negatively affect the natural sediment regime at the river mouth and have an impact on the seasonal and diurnal movement of birds between the river and the estuary.

Overview assessment against the Scheme objectives

Environmental Objectives

1. That the Scheme will achieve as a minimum a neutral impact on the environment.
Assessment: not achieved as is admitted in the EIA statements about long term damage to habitats and place. Furthermore, Scottish Government policy is to reduce impact.

2. To ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures. Assessment: not achieved 2 small scale reservoirs are proposed to be used but nothing else within the catchment.
3. To ensure that the Scheme considers the impact of climate change and includes appropriate provisions to mitigate any impact. Assessment: the use of climate change estimates is the main driver for all of the estimates of flood risk on the river and along the coast. However, it does not address these in the detail necessary to design an appropriate scheme for this catchment as the information is not available. Also the variability and unpredictability of weather, rather than climate, is not addressed. This is an important factor given the predicted increase in high intensity precipitation events affecting the catchment and the increased intensity and frequency of storm conditions at sea affecting the removal of intertidal sediment and the inland retreat of the coastal edge.
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. Assessment: not achieved. The statements in the EIA suggest that damage is recognised but no mitigating measures are proposed.
5. To ensure that the Scheme consults with all appropriate environmental stakeholders. Assessment: largely achieved in the statutory sector but whether their views have influence on the Scheme is difficult for the outsider to judge. Not achieved from residents' standpoint as there will be major changes to the environment that the consultants have only marginally modified.

Social and Cultural Objectives

6. To ensure that the Scheme does not sever the town from its river (through the height / size of flood protection walls and / or embankments) in either the physical or visual sense. Assessment: only some partial achievement as the sections of walls will remove views and also stop access to the river banks. The perception within the resident community and among visitors is that the river will now be cut off from the town to the detriment of all.
7. To ensure that the Scheme respects the cultural heritage of the town. Assessment achieved in not changing the two historic Listed bridges, but not achieved in cutting the town off from the river with the placement of defence works.
8. To ensure that the Scheme takes account of people most vulnerable to flooding. Assessment : not obviously achieved to me as the owner of a property vulnerable to future flooding.
9. To consult with stakeholders, businesses and the local population. Assessment: not good as flawed old fashioned top/down process used, and interaction is from consultants. The consultants are also the mouthpiece of the Council and its Elected Members.
10. To remove the real and perceived danger of a flooding event from the communities, individuals and businesses that lie in the floodplain. Assessment: has to be achieved with a Scheme which the property owners and users are satisfied as meeting their requirements and those of their insurers.

Ultimately East Lothian Council should be wishing to achieve the following objective:
Let's use Nature Based Solutions throughout the Esk catchment so that Musselburgh flood protection becomes an exemplar of new best practice: protecting properties, enhancing our lives, providing value for public money, improving amenity, and helping to address the twin crises of biodiversity loss and climate change.

The current Scheme does not achieve that objective , nor does it adequately achieve the ELC's own stated objectives. So, I Have 12 objections.

[REDACTED]

April 2024

Subject: (0115) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:08:12
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Public consultation](#) [REDACTED].docx

Categories: [REDACTED]

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Please confirm receipt of these objections.

Please note that I require written responses to the main address [REDACTED] and not via email.

Yours sincerely

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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

**I / We wish to object to the proposed Musselburgh Flood Defense
Scheme for the following reason:**

Public consultation

Risk to homes & businesses has been adequately managed for the past 75 years with the last significant flood event in 1948. The design consultants have discounted localized protection to homes & businesses on the instruction of East Lothian Council to provide a 1:200-year protection.

The scheme was changed considerably from the public Exhibition on 20/21 June 2023 but no further public meeting has been held despite requests for an updated presentation to the public. Drop in consultations resulted in the suggestion by the project Team that the design had been adapted to meet public concerns. However, no confirmation of those changes was made available via a public meeting and the value of drop in consultations very limited.

Many people have stated to me that they found the project team; condescending, overbearing, manipulative and economical with the truth. I have also found this for myself.

This is also supported by the implication by the Project Team in the report into the questionnaire from the 3rd Public Exhibition in June 2023 (published on the 4th December 2023) that online respondents may have made 'multiple' submissions and therefore the online results were unreliable.

It should be noted that 897 members of the public attended the Public Exhibition in June 2023. Of those 327 completed the questionnaires at the event. A Further 537 where submitted online. A total of 864 submitted questionnaires.

The report published on the 4th December 2023 implies fraudulent submissions and therefore questions the validity of the feedback.

Such aspersions make the recorded results composed by ELC's MFPS team of the 3rd Public Exhibition questionable. Surely the Project team had the safeguards in place to ensure that multiple submissions did not happen?

I argue that as many online respondents were younger (as evidenced in the reports statistics), with greater access to online information rather than relying what they were told at the Public, event that many younger people may have responded online because they went home to get answers or could not attend the event due to work & or Family commitments.

The suggestion made reflects poorly on the Project Team and council officers and their attitude to the Musselburgh residents.

The summary report states that the ELC advisors question the unreliable or possibly duplicate submissions. The questionnaire was designed to elicit specific responses as it offered very little possibility of objective input. Many older people I have spoken to found the questionnaire confusing and chose not to complete it for that reason. Being online it was not easily accessible to all those that did not have easy access to the printed document. In summary, the responsibility to obtain honest and accurate responses belongs to the designers of the questionnaire.

I/We therefore request that a full investigation and public enquiry is held in order for the views of all businesses, property owners and residents to be considered.

Yours sincerely

██████████ and ██████████

Subject: (0116) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:15:18
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Effect on Character of a conservation area](#) [REDACTED].docx

Categories: [REDACTED]

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Yours sincerely
[REDACTED]

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

**I / We wish to object to the proposed Musselburgh Flood Defense
Scheme for the following reason:**

**I/ We object to the proposed Musselburgh Flood protection Scheme
Due to the major permanent impact that the proposed scheme will have
within a historic Conservation Area, SSSI and Ramsar areas**

Ourselves and most of the population of Musselburgh work, own or rent property in Musselburgh. The reason for most in choosing Musselburgh as a place to live is its historical natural beauty and the accessibility and aesthetic benefits for their mental health. Many who live in Musselburgh do so because it is their traditional family home.

A huge number of local residents do not want the changes that would be imposed by the proposed MFPS to the river.

Local people do not want the proposed physical changes to their river or the historic attractiveness of what is one of the oldest towns in Scotland.

Many of those objecting to the proposed MFPS, are those at greatest risk of flooding as they live within a few meters of the river bank. Their continual objection to the proposals, have been ignored by ELC and the schemes designers Jacobs. Despite some tweaking of the design presented to the public in June 2023 and updated visualisations, the scheme remains relatively unchanged in its impact on the historic Conservation areas and protected sites that comprise Musselburgh. The proposals to use embankments do not serve to reduce the height of the walls only to conceal them. The proposed walls will therefore still be visible from the opposing bank.

I / We therefore object for the above reasons and request that the scheme is paused and that a full revisitation and redesign is made and a public vote is made available to businesses, property owners and residents in Musselburgh.

Yours sincerely █████ & ██████████

Subject: (0117) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:15:35
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Funding.docx](#)

Categories: [REDACTED]

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Yours sincerely
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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

**I / We wish to object to the proposed Musselburgh Flood Defense
Scheme for the following reason:**

No evidence has been shown of ELC's ability to fund the MFPS.

East Lothian Council have a very significant funding deficit both in both revenue income and capital investment resources.

ELC have failed to show how they propose to fund their 20% share of what is presently 2 schemes The Musselburgh Flood Protection Scheme and the Coastal Change Adaptation Plan totalling at present approximately £103 million and therefore a contribution in excess of 20 million pounds.

Despite numerous requests by myself and others, no explanation of how ELC intends to fund their share of the final project costs has been made available.

To Quote ELS's Financial update December 2023: 3.1 *The Council is continuing to operate within the most extreme and challenging financial environment that it has ever faced with significant challenges in 2023/24 and an estimated recurring financial gap in excess of £70 million over the next five years, which is equivalent to a quarter of the Council's annual running costs.*

3.7 *The unplanned overspend, after applying planned use of reserves is currently forecast to be £8.2 million at the end of the year. While this represents an improvement of £2.1 million since the period 5 report, an overspend of this level cannot be accommodated within unallocated balances on the general fund reserve and will not only remove in full the minimum level of reserve of £7.2m but will also result in a reduction in other earmarked funds. This will present a significant risk to the Council's financial sustainability and ability to deliver on our strategic priorities, and it will also diminish our capacity to respond to unforeseen events in the future. Mitigation measures have been introduced with a view to reducing the in-year overspend and preserving the minimum balance on the general fund; however, it is vital that longer-term solutions to closing the funding gap are identified to achieve a sustainable position in the future.*

It is not acceptable that ELC puts the Council at risk of bankruptcy endorsing a scheme with questionable benefit in the long term.

On 6th April 2023 Councillor Norman Hampshire, council leader, highlighted the potentially grim future facing the council during a meeting of Dunbar Community Council stating that *"If we keep going the way we are going, we are going to be bankrupt as a council."*

The Esk river restoration & improvement is not fully funded by the Flood protection legislation. With East Lothian Council in financial straits both for Capital Funding and Revenue Funding there is no guarantee that the river will be properly restored and natural habitats improved should funds available within the remit of the funding by the Scottish government prove inadequate.

The project team and ELC have not shown where the additional funding for this to be implemented will be obtained despite implying that funding could be obtained. Guarantees of 'ringfenced' funds are required to ensure that the proposed river restoration will be carried out in full. This information has not been provided.

Scottish Taxpayers are entitled to know if the proposed scheme offers value for money and a realistic solution in light of the costs for Musselburgh. East Lothian residents are entitled to expect the ELC to act in such a way as to protect its residents and not put the Council at risk of bankruptcy.

As ELC do not have the funds to adequately maintain existing issues, such as drains, roads, footpaths and amenity maintenance it is of concern that they may be unable to meet the expense of servicing many aspects of the proposed MFPS. I therefore request that the request for funding for a Musselburgh Flood protection Scheme should be held over until such time as East Lothian Council have the funds to meet any obligations of the proposed Musselburgh Flood Protection Scheme.

At the Council meeting to discuss MFPS on 23rd Jan 2024 available at https://eastlothian.public-i.tv/core/portal/webcast_interactive/834926

Mr Alan Stubbs indicated estimated costs as follows:

MFPS 53.9m

Yours sincerely

██████████
██████████

Subject: (0118) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:16:16
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Access objections.docx](#)

Categories: [REDACTED]

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Yours sincerely
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17/4/24

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

Haddington and Dalkeith are not Musselburgh and as such not convenient for affected residents to be able to adequately access information documents for the proposed Flood Protection Scheme and Coastal Adaptation Scheme.

The plans should be available to view 10am - 9pm 7 days a week at least, somewhere in Musselburgh.

1. East Lothian Council are doing their utmost to thwart objections from those most affected by their plans by limiting access to the scheme documents to unreasonable hours for working people.

2. By posting the proposed MFPS from the 24th March 2024 – 24th April 2024 the period falls between dates when many people may be on holiday or busy with extra child care commitments. It is my belief that these dates were chosen to limit objections to the proposed schemes.

2. The proposals look nothing like the public presentation in June 2023.

I therefore request a public enquiry into the failure of the schemes proposers to enable adequate access to the proposed scheme documents in Musselburgh.

Yours Sincerely

[REDACTED]

Subject: (0119) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:16:35
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Design and impact.docx](#)

Categories: [REDACTED]

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Yours sincerely
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17th April 2024

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

Whilst originally choosing to incorporate a provision for MAT within the scheme there is no proof that this can be delivered as the acceptance of the MAT project is far from achieving planning permission & is likely to meet with significant public opposition. There is little prospect of bicycles, electric scooters, electric bicycles, trishaws, children’s pull-along wagons, children, buggies, walkers & dog owners feasibly sharing an active travel route. It would be too dangerous and there is no evidence that such a design would work in the UK.

MAT is not included in the proposed scheme, therefore until such a time as the MAT should be granted planning permission the design incorporating extra wide ramps, footpaths and access points and narrowing the river to incorporate these features is excessive and not justified.

MAT forms part of the EIA summary where it should not. MAT is not within the scheme proposals.

This therefore means that decisions are being taken based on an EIA that is out of date.

The EIA summary significantly omits to mention the long-term implications on health with regards to the disabled or those with limited mobility.

By removing MAT from the proposed design, the proposers ELC have made the ability to offer sound objections more difficult for the public to understand the proposed MFPS in its own right and therefore have had their options for objection circumstantially altered.

The initial scheme proposed and consulted on with the local population contained MAT. This was not legal as MAT requires planning permission. MAT was withdrawn hours prior to the scheme being ‘notified’. The proposed scheme has been designed to incorporate a project that has no validity or flood risk benefit. The design team of experts must have been fully aware of the legal requirements from the outset as they have all the expertise to have recognized this. The design and EIA should therefore have been amended prior to the scheme being ‘notified’ to the public for the 28 day objection period.

I therefore object that the proposed scheme is not the best possible solution required under the 2009 Flood Risk Management (Scotland) Act 2009 as it compromises significantly on the river environment & accessibility

Yours sincerely [REDACTED]

Subject: (0120) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:16:50
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Dynamic Coast findings.docx](#)

Categories: [REDACTED]

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Yours sincerely
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**To The Service Manager – Governance, Legal Services,
East Lothian Council, John Muir House, Haddington, EH41 3HA**

**I / We wish to object to the proposed Musselburgh Flood Defense
Scheme for the following reason:**

The Dynamic Coast report **MUSSELBURGH COASTAL CHANGE ASSESSMENT**, (February 2024) puts into doubt the whole concept of building a sea wall to last until the end of the century as many of us have questioned. It is a very strong and clearly supported point of objection based on facts provided by an independent Statutory body

Based on the report by the Statutory body Dynamic Coast I wish to object to the proposed flood protection works named The Coastal Change Adaptation Plan and the Musselburgh Flood Protection Scheme. The authors of the Dynamic Coast report clearly believe that we should start planning for managed retreat from the current coastline.

The authors make a clear case that barriers will lead to foreshore narrowing (i.e beach gets steeper and may vanish) which will eventually undermine hard defences (unless even more engineering is done...)

The proposed scheme is not fit for purpose as it does not meet the criteria of the objective which is to protect the town from coastal flooding for a period of 100 years.

I / We therefore object to the proposed MFPS & Coastal Adaptation Scheme as in reference to Dynamic Coast's report the proposed scheme has little long-term value.

Yours sincerely

[REDACTED]

[REDACTED]

Subject: (0121) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:17:01
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Social & Economic \[REDACTED\].docx](#)

Categories: [REDACTED]

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Yours sincerely
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17th April 2024

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

I wish to object to the proposed Musselburgh Flood Defense Scheme for the following reason:

The social and economic impact

The proposed scheme contains an unacceptable physical alteration to the historic Burgh of Musselburgh. The benefit does not outweigh the impact on the economic attraction of Musselburgh as one of the oldest towns in Scotland and its value to the local economy obtained from tourism

Walls will affect tourism as Musselburgh's Historic visual appearance, riverbanks and natural amenity would be significantly altered.

The proposed scheme restricts access to the beach & river banks most particularly to the elderly, disabled, those with young children and those with special needs such as Autism & ADHD. Reduced access to nature & walks has social, health and economic implications for Musselburgh.

Illustrations of the scheme on the river Esk itself provided to the public have been misleading by incorporating 'artistic license' (the misuse of perspective) and the lack of transparent illustration of the proposed scheme. One example of this is the indicators of tree loss within the project. Trees that will be lost are indicated in red whereas trees that will remain are indicated in green. There is however a failure to highlight / indicate trees 'at risk' of removal in a clear designation as these are also marked in green.

The risk to homes & businesses has been adequately managed for the past 75 years. The design consultants have discounted localized protection to homes & businesses on the instruction of East Lothian Council to provide a 1:200-year protection.

It needs to be questioned that if East Lothian Council were convinced of the risk of flooding by the river Esk in Musselburgh Town centre why the Wiremills development of 140 homes on Mall Avenue was granted permission?

Given the present economic climate the proposed expenditure of Scottish Taxpayers money on such a remote occurrence is questionable.

The MFPS therefore requires to be revised to a level where, some protection is offered whilst retaining the social economic value of the towns assets.

Yours sincerely

[REDACTED]
[REDACTED]

Subject: (0122) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:18:59
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [EIA objection.docx](#)

Categories: [REDACTED]

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Yours sincerely
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17 April 2024

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

The Published EIA summary consistently underplays the impact of the proposed scheme and I am objecting on the grounds that it has either not been adequately researched or has been manipulated by Jacobs in whose best interest development to the full design stage is paramount for profitability. The EIA has misled the Councillors unless they are complicit and is misleading to the public reading the condensed summary. I therefore demand that an independent audit is carried out on the findings contained in the Summary EIA as published.

All the comments pre-mitigation are Adverse or Major Adverse. There is no evidence that the mitigation efforts will have enough impact to fully restore the loss of habitat and damage to biodiversity within the lifetime of the scheme which could be as low as 60 years (NB: existing seawall) given that the full effects of climate change cannot be fully calculated and are only a guesstimate.

The summary EIA does not mention the negative effects of overlooking from the raised embankments along the river as part of the scheme. Any increase in the value of homes due to the MFPS is likely to be outweighed by the loss in value due to being overlooked and properties losing their views of the river. Historically, Insurance companies have little regard for flood protection schemes and therefore the proposed scheme is likely to offer limited benefit to home owners with properties on the river.

The EIA suggests that riparian and other planting will substitute for loss of habitat and aesthetic appeal once established. It should however be pointed out that riparian planting is NOT drought tolerant. Due to climate change. There is nowadays a significant period of drought in any given year. The chances of Riparian planting surviving are therefore slim in the long term. This could have significant revenue implications for East Lothian Council going forwards. (Opinion, [REDACTED]
[REDACTED])

Summary EIA area study 3

The EIA provided is full of assumptions rather than based in fact supported by scientific evidence. Rather it is assumed wishful thinking on the part of Jacobs who compiled the report and would benefit significantly from the proposed MFPS proceeding to the Final Design stage. There is no evidence of support from Musselburgh residents to support these assumptions.

Yours sincerely

[REDACTED]

[REDACTED]

Subject: (0123) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:19:22
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Inadequate EIA \[REDACTED\].docx](#)

Categories: [REDACTED]

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Further to my letters to Mr Grilli I include an email copy of my objections to the MFPS to ensure that they are all read and responded to.
Please confirm receipt of these objections.
Please note that I require written responses to the main address [REDACTED] and not via email.
Yours sincerely
[REDACTED]

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

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

I wish to object to the proposed Musselburgh Flood Defense Scheme for the following reasons:

The decision of ELC to proceed with the application is not legal in that the vote was taken without publication of the Full EIA. The ELC Councillors only had access to a condensed summary of the EIA compiled by Jacobs and not the full report. There appears to be very little input from the required Statutory bodies included within the summary Jacobs EIA report.

The Final Summary EIA produced by Jacobs is riddled with assumptions and omissions. In referring to the massive full EIA made available to the public, I was unable to find information on many factors that should have been considered and again found many areas full of assumptions with no foundation in evidential fact. It is in Jacobs best interests that the MFPS progresses to the Full design stage in order to maximize their profits.

I wish to object to the MFPS as I believe that the required EIA has been manipulated to put a skew in favor of proceeding with the MFPS.

The Environmental Impact Assessment should give particular focus to impacts on heritage assets and their settings which may be affected during construction works., for example, that the Flood Protection Scheme is located inside the designated areas for the Pinkie Battlefield (BTL15) and the Pinkie House Inventory Designed Landscape (GDL313). There will be an impact on appearance of the environment around the Category A listed Old Roman Bridge over the River Esk (LB38378) and the Category B listed New Bridge Between Bridge Street and High Street (LB38363), caused by the construction of flood defence walls on either side of each bridge. In each instance, mitigation by design is inadequate to minimise impacts on heritage assets caused during construction works. At this time there appears to be no detailed Construction Environmental Management Plan (CEMP). The drawings supporting the scheme are not detailed enough and do not contain enough appropriate technical information demonstrating that impacts can be limited to an acceptable degree. Further to this, there is inadequate detail of the impacts on the setting of heritage as well as any additional nearby heritage assets. I note from the EIA Scoping Report (July 2020) that it is proposed to assess impacts on the setting of heritage assets located within a 500m study area and are broadly content with this. Impacts on the setting of heritage assets These should have been be assessed using photomontage and wireframe visualisations where impacts are likely to be highest. I also consider that the Flood Protection Scheme proposals may give rise to impacts on marine archaeology located below the tidal limit. I note that the EIA Scoping Report (July 2020) identifies the potential for unknown archaeological remains located along the banks of the River Esk and the coastline. I therefor object due to the fact that an archaeological survey has not been undertaken in these areas that would take into account the potential for unrecorded archaeology located below the tidal limit. Appropriate mitigation measures should also be identified. The guidance in The Crown Estate Protocol for Archaeological Discoveries document will help with the design of suitable actions and mitigation measures. It is also notable that the developer has not taken into account the Joint Nautical Archaeological Committee’s Code of Practice for Seabed Development as part of the assessment of the impact of this proposal.

The potential for impacts on heritage assets and their settings caused by the construction, operation and maintenance of the proposed ‘upper catchment debris trap’ and the adaptation of Scottish Water reservoirs. Has provided limited information regarding these works is provided as part of this consultation and therefore further detail on this requires to be provided. The detail has not been made public. Impacts may, for example, occur on the Dalkeith Palace Inventory Designed Landscape (GDL128) and scheduled

monuments including the Eastfield, enclosures and pit alignments, Old Craighall (SM6020), Monktonhall Junction, Neolithic cursus 150m N of Whitecraig (SM13318) and Monktonhall Junction, Roman camps and prehistoric settlement (SM3610). Other Consents It should be noted that any construction works directly affecting the Category A listed Old Bridge over the River Esk (LB38378) and the Category B listed New Bridge Between Bridge Street and High Street (LB38363) are likely to require listed building consent (LBC). Similarly, it should be noted that elements of the proposed scheme below the tidal limit are likely to require a Marine Licence. I therefore object to the lack of information of any associated LBC or Marine Licence applications.

EIA Scoping Report (July 2020) I have reviewed the EIA Scoping Report (July 2020) set out at Section 7 (Cultural Heritage) subject to the comments below. As set out above, it should be noted that limited information has provided about the construction, operation and maintenance of the 'upper catchment debris trap' and works for adaptation of Scottish Water reservoirs. I require that the scope of any assessment should therefore be adapted to reflect these aspects of the proposals

I also disagree with the proposal at Section 7.3 that effects on the historic environment caused by noise/vibration or change to the landscape will be assessed in different EIA Chapters. Here, it should be noted that these heritage assets are designated for their cultural heritage value. I therefore consider that any effects caused by noise/vibration or change to the landscape should be considered in terms of their cultural heritage impact. Relevant findings from other chapters within the EIA The report should therefore be clearly cross-referenced within the cultural heritage assessment. Further information A new Historic Environment Policy for Scotland (HEPS, 2019) was adopted on the 1st May 2019, which replaces the Historic Environment Scotland Policy Statement (HESPS, 2016). The new Historic Environment Policy for Scotland is a strategic policy document for the whole of the historic environment and is underpinned by detailed policy and guidance. This includes our Managing Change in the Historic Environment Guidance Scottish Environment Protection Agency (SEPA) The SEPA Environmental Impact Assessment (EIA) screening opinion for the Musselburgh Flood Protection Scheme (FPS) as I understand, as per the EIA Scoping Report (dated July 2020) and your consultation email (dated 27 August 2020), is that the FPS will be progressed under the provisions of the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010 (as amended) ('FRM Regulations'). Under the FRM Regulations, Section 2.2 of the report states given the sensitivity of the study area's natural and built environment and close proximity to residents at certain locations that 'it was considered likely that there will be a potential for significant 'environmental effects'. The FPS is therefore regarded as EIA development with regard to Schedule 1 of the regulations

There are in this instance there are a wide range of receptors within NatureScot's remit that must be considered, and it is my understanding that there are many more receptors Given the wide range of receptors and impacts that must be assessed it may make sense for the assessment to be consolidated into the EIA process.

I object due to the fact that Firth of Forth SSSI/ SPA/ Ramsar site and additional sites protected for nature (e.g. Gladhouse Reservoir SSSI/ SPA) • European protected species (e.g. otter, bats), UK protected species (e.g. birds, reptiles, amphibians, badger etc), public access have been inadequately addressed. I object to the proposed scheme due to the fact that has the potential to have significant impacts on the historic environment. This includes both direct impacts on buried archaeology and historic structures, as well as indirect impacts on the setting of a number of key sites, Scheduled Monuments, Listed Buildings, the Battle of Pinkie Inventory Battlefield, and several designated Gardens and Designed Landscapes. I find that these potential significant impacts on the historic environment are not inadequately represented in the EIA made available by Musselburgh Flood Protection Scheme authors to the residents of Musselburgh due to the potential for significant impacts on the Firth of Forth SPA, Ramsar and SSSI and also the potential for significant impacts on protected species, in particular bats and otters. ELC Climate Change and Sustainability I note the extensive EIA Draft Scoping Report on the MFPS prepared by Jacobs and submitted for this project. This appears to cover the major aspects that should be considered in the EIA. I note that Air Quality and Climate Change are specifically included. With regard to Climate Change, I have the following

comments: Unfortunately, the Scoping document does not make reference to East Lothian Council's Climate Change Strategy – this should be included. The Climate Change Strategy sets out how the Council will tackle both Climate Change Mitigation and also Climate Change Adaptation locally. I think it is important that the Scoping document failed to distinguish between these two aspects of tackling climate change. 'Climate Adaptation: Climate Ready Communities' is one Key Priority Area set out in the Climate Change Strategy, with the specific action (Action 7.5f) to "Progress the Musselburgh Flood Protection Scheme". This project may have a major significant impact on protecting Musselburgh from future flooding that might arise, and become more likely to occur, as a result of climate change. It is however important that this development considers both the greenhouse gas emissions arising during construction and during the operational life of the scheme throughout the entire 'lifespan' of the scheme. Circular economy principles should be incorporated to ensure the long term sustainability of the construction materials proposed, including consideration of the lifetime sustainability of the scheme. There is a lack of natural flood management opportunities being undertaken alongside the River Esk where this would be appropriate to enhance the green network properties of the Esk Corridor and promote natural water management and natural habitat enhancement, such as use of reedbeds / marshland areas. This links to specific actions in our Climate Change Strategy under Outcome 6 ('A Healthy and Resilient Natural Environment and the route to Carbon Neutral'), specifically Actions 6.2b and 6.2e. This would also benefit biodiversity. However, in this respect I feel that the proposed scheme fails to meet these objectives.

Yours sincerely

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Subject: (0124) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:19:42
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Failure to notify affected households.docx](#)

Categories: [REDACTED]

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Yours sincerely
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**To The Service Manager – Governance, Legal Services,
East Lothian Council, John Muir House, Haddington, EH41 3HA**

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

I wish to object to the failure of the MFPS to correctly notify all those that will be affected by the proposed Musselburgh Flood protection scheme and The Coastal Change Adaptation Plan

All households in Musselburgh and within a larger catchment should have been notified. All households will be affected by disruption to traffic, transport, noise, pollution, the pressure on ELC finances, loss of amenity and access.

Yours sincerely

[REDACTED]

Subject: (0125) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:20:04
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Innsufficient evidence](#) [REDACTED] [docx](#)

Categories: [REDACTED]

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

**I / We wish to object to the proposed Musselburgh Flood Defense
Scheme for the following reason:**

**I / We object to the proposed Musselburgh Flood protection Scheme
Due to insufficient information being available to accurately provide a
reliable estimate of the scheme cost due to too many variables within the
proposed scheme at the Outline Design stage:**

Firstly, the move forward to the Approval stage of the MFPS has been rushed due to the perceived need by East Lothian Councillors to meet the April 2024 deadline for application for cycle 1 funding. Councillors were advised that not submitting the MFPS for approval prior to the April 2024 deadline, could result in a loss of some or all funding by the Scottish Government. This has resulted in a lack of enough detail within the outline scheme to safeguard the character of Musselburgh.

Secondly, ELC Councillors have been manipulated into progressing the MFPS forward to Approval, by scaremongering by both Jacobs [REDACTED] and CP consultancy (Conor Price) advising them of the risk of funding not being available if the April 2024 deadline for cycle 1 funding was missed. There is absolutely no evidence that would support this argument. I have this evidence recorded. **Special East Lothian Council
Tuesday, 23rd January 2024 at 9:30am https://eastlothian.public-i.tv/core/portal/webcast_interactive/834926**

In order to meet the Cycle 1 deadline ELC's advisors advised Councillors to ignore the Govt guidance that NFM should be fully investigated and advised that NFM be excluded from the proposals. On the advisors (The Musselburgh Flood Protection Team) recommendation that further investigations into NFM was therefore excluded from the scheme was agreed.

3. 4000 people signed a petition asking that the scheme was paused to enable further investigation to Natural Flood Solutions. East Lothian Councillors advisors and design Team were fully aware that the 'Pause Campaign' was underway and the threat it posed to ELC Councillors approving the Scheme to proceed to stage 4.

The Councillors were therefore advised and agreed to suspend further investigation of NFM & MFS within the project in October 2023, thus pre-empting the Public petition, delivered in

December 2023 and removing its relevance to the scheme enabling ELC to disregard public opinion at the vote to move to stage 4

The final Outline Design was made be publicly available once “notification” commenced. As above, a number of features are proposed, including swales and pumping stations to prevent any increased pluvial (surface water) flooding on the “dry” side of the defences. As identified, the risk of climate change is increasing and as such, the Musselburgh FPS is designed to a 1 in 200 year plus climate change level of protection, rather than a 1 in 200 - year level of protection. I argue that as comprehensive and accurate information is available as to the potential impact of climate change is unavailable, the proposed scheme is unwarranted until such time as the risks can be confirmed.

Yours sincerely

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Subject: (0126) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:20:28
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [EIA ignoring safeguarding of vulnerable protected species..docx](#)

Categories: [REDACTED]

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Yours sincerely
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Date.....

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

I object to the proposed flood scheme due to the fact that it proposes that the value of the proposed scheme outweighs protected wildlife considerations and assumes that there will be no long-term detrimental effect on the breeding population of protected and endangered species.

1. The EIA compiled by the MFPS officers fails to recognize the impact on the population of Otters which it states is considered minimal and not of consequence. There are breeding otters located at the weir at the grove. These otters produce 3 kits a year that increases the viability of an endangered species. The otters also have several holts that act as rest areas between the mouth of the Esk and the proposed debris trap upstream.
2. The EIA compiled by Jacobs fails to recognize fully the numbers or breeding Kingfishers on the river Esk within the proposed area of the Flood protection Scheme. The Kingfishers on the Esk within the area of the proposed MFPS have a breeding tunnel above the weir located at Goosegreen, a tunnel located at the weir below the weir at the proposed site of the new bridge proposed for Ivanhoe. The river bank opposite the Inveresk Estate and close to where the proposed debris trap is located. Kingfishers tend to favour slow-flowing rivers or motionless water. Kingfishers do not build a nest, as is common among most species of birds. Instead, they nest inside a tunnel, which is typically around 30-90cm in length, located next to a river bank of slow-moving water, and contains no other materials.
3. The EIA compiled by the Jacobs fails to recognise the value to the protected bat species along the river Esk.
4. Removing large established trees and increasing the flow of the river by making it narrower will significantly reduce the insect population on the river resulting in less food available for vulnerable bat species. Bats rely on large populations of insect life. The bats on the river Esk have been recorded as: Daubenton's bat, Natters Bat Noctule Bat, Brown long-eared Bats, Common pipistrelle and Soprano pipistrelle.
5. I therefore object to the proposed Musselburgh flood protection Scheme as the EIA has been compiled by persons not familiar with the locale of the proposed MFPS or the prevalence and successful breeding of endangered species within the proposed locale and their assumptions that breeding populations of Bats, Otters and

Kingfishers will be able to resume their breeding populations on completion of the proposed MFPS.

Should this objection be refused, I require evidence that these facts are incorrect as I have evidence to the contrary.

Yours sincerely

A solid black rectangular redaction box covering the signature area.

Subject: (0127) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:20:50
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [ELC CONSULTATION](#) [REDACTED].docx

Categories: [REDACTED]

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Yours sincerely

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14/4/24

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

Lack of Information:

The Design Team & MFPS officers have failed to make clear the full impact of the proposed scheme on the town of Musselburgh to both the townsfolk and the Councillors. The information provided for outline of the scheme had a skewed bias in favour of the scheme.

The EIA has avoided clarifying the possible detrimental effect by failing for example to make clear what trees might be at risk or damage or removal. This point was raised via public objection to mis-representation.

Having chosen not to use the RAG traffic light system to identify trees that will be removed marked in red. The trees that will remain are marked green. It is entirely misleading that trees 'at risk' are also marked in green rather than amber to identify that they are at risk. The 'small print' on some trees marked in green that are at risk was made barely visible without having to use a magnifying glass or zoom function to read the small print that not all the trees marked green would be retained.

The decision of ELC to proceed to notification without access to the full EIA, Scottish Water report on Drains and Dynamic Coast report, choosing to rely instead on reports created by their paid / employed advisors.

No independent scrutiny was undertaken to verify the accuracy and impartiality of the condensed reports submitted to Councillors of the 23rd January 2024.

As our elected representatives our Councillors must review the in order to enable people to have a clear, accessible and honest view of the possible impact on the trees of the proposed scheme. They must also conduct a further review of the proposed scheme involving Musselburgh residents to ensure the altered meets with the town's approval.

I therefore request a full independent evaluation of the proposed MFPS

Yours sincerely

[REDACTED]

Subject: (0128) Musselburgh Flood Protection scheme 2024
Sent: 19/04/2024, 08:21:12
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Unnecessary development.docx](#)

Categories: [REDACTED]

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Yours sincerely
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17 April 2024

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

Unnecessary development within a conservation area, Ramsar site and SSSI:

The proposed Goosegreen bridge is a new structure in a completely new location and is not in keeping with the existing ambience of Musselburgh or its aesthetic appeal.

The proposed new Goosegreen bridge is totally unnecessary and would have a significant impact on views over the Forth Estuary and enjoyment of existing access to the shoreline.

The proposed new bridge would impact on the SSSI site & Ramsar site by causing pollution during its construction, damage to existing wildlife habitats

Additionally, the design is modern and not in keeping with the historic conservation status of Musselburgh and could pose a risk to protected seabirds natural habitat.

Yours sincerely

[REDACTED]

Subject: (0129) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:24:11
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Unnecessary development.docx](#)

Categories: [REDACTED]

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Yours sincerely

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17 April 2024

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

Unnecessary development within a conservation area, Ramsar site and SSSI:

The proposed Goosegreen bridge is a new structure in a completely new location and is not in keeping with the existing ambience of Musselburgh or its aesthetic appeal.

The proposed new Goosegreen bridge is totally unnecessary and would have a significant impact on views over the Forth Estuary and enjoyment of existing access to the shoreline.

The proposed new bridge would impact on the SSSI site & Ramsar site by causing pollution during its construction, damage to existing wildlife habitats

Additionally, the design is modern and not in keeping with the historic conservation status of Musselburgh and could pose a risk to protected seabirds natural habitat.

Yours sincerely

[REDACTED]

Subject: (0130) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:24:55
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Scheme Value \[REDACTED\].docx](#)

Categories: [REDACTED]

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14/4/24

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

The proposed scheme to protect the homes & businesses along the river Esk does not offer a best value to Scottish Taxpayers. There are alternatives that would be more cost effective for Scottish Taxpayers such as individual measures to protect homes & business from a river flood event in some areas of the town.

The greatest risk to Musselburgh in the long term is from rising sea levels and not as insinuated by the MFPS design team the river itself. There has been no significant damage to homes & businesses along the river since 1948.

From SEPA information, the greatest risk to Musselburgh in the long term is from rising sea levels and an extraordinary tidal event and not as insinuated by the MFPS design team the river itself.

Risk to homes & businesses has been adequately managed for the past 75 years. The design consultants have discounted localized protection to homes & businesses on the instruction of East Lothian Council to provide a 1:200-year protection.

It needs to be questioned that if East Lothian Council were convinced of the risk of flooding by the river Esk in Musselburgh Town centre why the Wire Mills development of 140 homes on Mall Avenue was granted permission?

With Reference to the Dynamic Coast report March 2024. The report surmises that the value of the proposed Coastal Risk Scheme would be very limited and that it would be unlikely to offer significant protection post 2040. The recommendation of the Dynamic Coast report is that a gradual relocation scheme for properties at risk from coastal erosion and flooding would be the most realistic solution

Therefore with expert consultative advice no work should be undertaken to develop a Coastal protection Scheme but that those at risk from climate change and future flooding should be assisted and incentivised to relocate over the next 16 years.

Given the present economic climate the proposed expenditure of Scottish Taxpayers money on such a remote occurrence is questionable.

Yours sincerely

[REDACTED]

Subject: (0131) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:25:17
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [COMPENSATION.docx](#)

Categories: [REDACTED]

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17th April 2024

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

I wish to object to the proposed Musselburgh Flood Protection scheme and inform the Governance of ELC that I would undertake action for compensation should the proposed scheme proceed.

I moved to Musselburgh [REDACTED]. It has been my home & my livelihood. I purchased a home in Musselburgh in [REDACTED] to escape from the stress of living in Edinburgh Town Centre. [REDACTED] the enjoyment I have of Musselburgh's open spaces and riverside walks are paramount to my health.

I moved up the road to a smaller quieter home in [REDACTED] for retirement and invested in tow properties in Musselburgh to provide rental income for my pension. I am entirely dependent in the income from said properties.

Should the proposed MFPS proceed, it is my belief that there will be a considerable period of this period that I will struggle to let my properties due to the disruption caused by the MFPS, that I will suffer a significant loss of income and may even be forced to sell the properties should I be unable to attract tenants at my present level return.

It is my belief that the construction of the MFPS could impact my investments and my livelihood and sole source of income.

I therefore wish to object to the proposed MFPS.

Yours sincerely

[REDACTED]

Subject: (0132) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:25:45
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [ELC Scheme maintainance.docx](#)

Categories: [REDACTED]

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Further to my letters to Mr Grilli I include an email copy of my objections to the MFPS to ensure that they are all read and responded to.

Please confirm receipt of these objections.

Please note that I require written responses to the main address [REDACTED] and not via email.

Yours sincerely

[REDACTED]

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

17th April 2024

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

I object to the provision for 5m wide paths paths being included in the proposed MFPS. 5m wide paths are not a necessary requirement to provide protection from flooding and therefore compromise the whole design. The inclusion of provision for 5m wide paths completely alters the integrity of the proposed scheme by requiring the flood defence structures to be built out into the river. This therefore narrows the river creating a canal like stricture that compromises the aesthetics of our historic town.

It was not made clear to the public that the river would be being extensively narrowed.

Narrowing the river increases the flow rate and affects the existing wildlife it will discourage existing rare wildlife like otters, Kingfishers and bats as these species require lower flow rates to maintain their prey and hunting environments.

Narrowing the river increases the danger to children or persons that mall fall from the walls. This could result in severe injury or even drowning for those who may not be able to get out. The stronger current due to river being narrowed and flow rate increase also increases the risk to human injury.

The proposed scheme fails to make clear that the proposed Goose Green Bridge is not absolutely necessary and is in addition to the replacement of existing bridges. Its inclusion in the scheme is not replacing an existing bridge in that position but has been designed to obtain maximum funding for the Musselburgh Flood Protection Scheme that it may in future permit Active Travel schemes projects. There is no evidence that the people of Musselburgh would support an application for MAT. Therefore, the inclusion of the proposed Goosegreen bridge is spurious and should be questioned and rejected.

Active Travel has nothing to do with Musselburgh's requirement for flood protection It has therefore been removed from the scheme. This was however a component part at the time the public were consulted on the scheme. The proposed scheme is therefore significantly altered from that on which public opinion was sought.

I therefore object to the design of the proposed MFPS as it contains elements of design to incorporate an Active Travel network at a future date that have no foundation in the most appropriate flood defence design for Musselburgh.

Yours sincerely [REDACTED]

Subject: (0133) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:26:37
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Failure to consult.docx](#)

Categories: [REDACTED]

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Please confirm receipt of these objections.
Please note that I require written responses to the main address [REDACTED] and not via email.
Yours sincerely
[REDACTED]

Subject: (0134) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:28:06
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Goosegreen Bridge.docx](#)

Categories: [REDACTED]

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Yours sincerely
[REDACTED]

[REDACTED]
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[REDACTED]
[REDACTED]

17th April 2023

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

The proposed new Goosegreen footbridge has been designated for dual use on the shown drawings to include MAT in future and therefore would no longer be a footbridge. The design is totally out of proportion for a footbridge and has been sited at a location where no previous bridge has existed. Quote *'By Year 15: The New Goose Green Footbridge would remain a prominent new feature within views, but the elegant structure would enhance visual amenity.* That is the view of the engineers and ELC and has no basis in fact as the people of Musselburgh have not had the opportunity to vote on this proposal to ascertain their views on a new bridge in a new location. Given that the MAT (Musselburgh Active Travel) proposals have been removed from the proposed scheme, there is no longer a requirement for a bridge at Goosegreen as it does not replace an existing bridge and is unnecessary as MAT (Musselburgh Active Travel) has been removed from the scheme design.

I therefore request that the proposed bridge is either removed from the MFPS or that its inclusion is referred to the Scottish Ministers for them to decide if its inclusion on the edge of a SSSI and Ramsar site is appropriate given that it is not necessary in order to form a flood protection benefit for Musselburgh.

Yours sincerely

[REDACTED]

Subject: (0135) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:28:55
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Generic objection.docx](#)

Categories: [REDACTED]

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Please confirm receipt of these objections.
Please note that I require written responses to the main address [REDACTED] and not via email.
Yours sincerely
[REDACTED]

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

17th April 2024

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 areas such as Joppa, Portobello and eastwards along the coast
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 the 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 and requires greater build height for protection.
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 affront to the people who can see with their own eyes what they have and the inferior landscapes the proposals offer, unquestionable gradually worsening 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 undermined due to my present environment (river and coastal walks and views) being threatened which will affect my mental and physical 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 land will be affected by scheme and its operations.
27. Lack of privacy due to walkways on top of defences is a breach of my human rights.
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. 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 and exercise. My grand-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 and 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 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 or by post.

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

Yours Faithfully,

████████████████████

Subject: (0136) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:29:22
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [docx](#)

Categories: [REDACTED]

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Please confirm receipt of these objections.
Please note that I require written responses to the main address [REDACTED] and not via email.
Yours sincerely
[REDACTED]

But the project has got itself into a bit of a muddle. And a bit of a legal mess. MAT needs removed from the Flood Scheme due to some kind of different planning legislation and rules. The public have some canny people in their midst and a petition forcing the Council to remove it was to be heard on 20th March. Less than 24 hours before that, the Council announced it was removing part of MAT from the Flood Scheme. All hell then broke loose. Why only part? Which parts? Are the parts that remain not circumventing planning legislation rules? What's in and what's out? What do we object to and when? Is the Flood Scheme re-drawing it's plans to remove the MAT paths and bridges? The MAT elements weren't explained properly during the consultation, so should they not all be removed?

The public are still completely confused. And we only have 10 more business days to write our letters of objection. The Council are getting an earful. The project team are no longer answering questions from the public other than receiving feedback through the objection process. Senior people at AECOM and Sustrans are simply referring the questions back to the project.

My emails have asked for someone to send me:

- A list of all elements of the Proposed Flood Design that were influenced by the MAT project prior to separating out MAT on the 20th of March

- And of that list, which elements are still contained within the Proposed Design documents and which have been removed

- And finally of that list which elements are to be covered in terms of objections under the Flood Scheme statutory objection phase and which are to be included under the MAT objection phase which will no doubt come later on

I need a response by close of play today.

I think it's almost impossible for the Flood Team to justify certain aspects of the Flood Scheme without admitting they are nothing to do with flood protection and everything to do with MAT requesting 5 metre wide paths throughout the town. Without MAT, there would be small paths or perhaps no paths at all in places. Without MAT, there would be no replacement of the Ivanhoe Bridge. Without MAT, the Electric Bridge and the GooseGreen Bridge would either be replaced as is (cycling and pedestrian only respectively) or amalgamated into one combined bridge but no additional 5 metre wide new bridge would be added at the mouth of the river. Without MAT the Flood Scheme wouldn't be building into the existing river width making it about 6 metres narrower. Without MAT, the Scheme wouldn't be placing the walls at the waters edge rather than the more logical place, closer to the Loretto wall or over by the pavement.

Yesterday, as happens often, the Goose Green area of the river burst its banks. Loads of Council people and Councillors turned up in high viz gear to assess and get some photos. Have a look at the

attached pic. Do you truly believe that MAT has been removed from the Scheme appropriately and the design that we have is purely about flood protection?

Carlo, I'd particularly like a legal answer from you on that last question.

In addition, a full (legally reviewed) answer needs to be posted on the Flood Scheme website, so other members of the public are also clear re what's going on. You have a duty to inform the public.

Subject: (0137) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:31:39
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Mitigation.docx](#)

Categories: [REDACTED]

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Please confirm receipt of these objections.

Please note that I require written responses to the main address [REDACTED] and not via email.

Yours sincerely

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

15th April 2024

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

I wish to object to the proposed Musselburgh Flood Defense Scheme for the following reason:

The design of the proposed MFPS is out of character and hugely impacts the Historic value of Musselburgh and the enjoyment of it by local residents and visitors.

Setting Impacts - These are generally direct and result from the Scheme causing change within the setting of a heritage asset that affects its cultural significance or the way in which it is understood, appreciated and experienced. Such impacts are generally, but not exclusively, visual, occurring directly as a result of the appearance of the Scheme in the surroundings of the asset, changes in the noise environment or historical relationships that do not relate entirely to intervisibility. Such impacts may occur during construction and operation of the Scheme and may be permanent, reversible or temporary.

- Cumulative Effects - Cumulative impacts relate to the physical fabric or setting of heritage assets. They arise as a result of impact interactions, either of different impacts of the Scheme itself or between the impacts of other projects, or additive impacts resulting from incremental changes caused by the Scheme together with other projects already in the planning system or allocated in a Local Development Plan.

I object to the design of the proposed MFPS as it is not in keeping with the historic value of Musselburgh.

Yours Sincerely

[REDACTED]

Subject: (0138) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:32:22
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [Natural Solutions](#) [REDACTED].docx

Categories: [REDACTED]

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Yours sincerely
[REDACTED]

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15th April 2024

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

**I wish to object to the proposed Musselburgh Flood Defense Scheme
for the following reason:**

The Act 2009 states that natural solutions are best practice. The scheme is the antithesis of this.

The proposed design results in the effective narrowing of the river Esk towards the river mouth. This results in the requirement for higher defenses being required to anticipate high tides and exceptional tidal occurrences.

I have been in touch with Loretto School that owns the Newfield playing fields at the Esk Mouth. I have been informed that at no time have they been approached to enquire about the purchase of land that would enable the river to be kept at its present width, widened or some form of Suds scheme to be created on what is a natural and frequently flooded area adjacent to an area of significant tidal influence. Such investigations have been discounted without evaluation as to the possible reduction of environmental, aesthetic or physical impact on Musselburgh. I have been assured that Loretto school would have been happy to enter negotiations to enable the proposed scheme to provide a more natural solution

I therefore object to the proposed scheme as it does not meet with the Scottish Governments guidelines that natural Solutions should be a primary consideration. Natural solutions have not been fully investigated.

Yours sincerely [REDACTED]

Subject: (0139) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:33:10
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [OBJ Duplicity.docx](#)

Categories: [REDACTED]

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Yours sincerely

[REDACTED]

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16/04/2024

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

**I / We wish to object to the proposed Musselburgh Flood Defense
Scheme for the following reason:**

The Jacobs, Council Officers and Councillors have known that Musselburgh Active Town would require planning permission from the outset of its inclusion in the design process. Despite this, MAT was incorporated into the design and only removed it 24 hours before moving to the objections process. I reiterated to both the Councillors, [REDACTED] and Conor Price on several occasions that MAT required Planning Permission, that it was a legal requirement. They were aware of the requirement.

There has been a breach of the Ethical Standards (Scotland) Act 2000 by including MAT in the proposed MFPS. This has misled the public and is interfering with the objections process. Choosing to announce the removal of MAT from the scheme design hours prior to moving to the public Objections process has resulted in inaccurate out of date information, drawings and EIA.

The decision to remove MAT at the very last moment before moving into the Objections process can only be construed to be designed to undermine the right and the ability of the public to object and to promote a scheme that is not fit for purpose. The MAT design elements are included in the public information and EIA and have a major impact on the design. MAT does not have the required Planning Permission and therefore including MAT provision and allowing it to influence the design is neither appropriate nor legal.

I therefore object and insist that the MFPS is paused until such time as

- a) Planning permission for MAT has been obtained or
- b) Should public objections, result in MAT not proceeding, the design is revisited to remove the elements and impacts of the inclusion of MAT from the MFPS design

Regards

[REDACTED]

Subject: (0140) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:33:42
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [OBJ LAW.docx](#)

Categories: [REDACTED]

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Yours sincerely

[REDACTED]

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16/04/2024

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

**I / We wish to object to the proposed Musselburgh Flood Defense
Scheme for the following reason:**

The East Lothian Cabinet Committee meeting on the 21st January 2020 did not have the authority to approve the excess budget for the Musselburgh Flood Protection Preferred Scheme as adopted on that date. The meeting of a reduced cabinet was insufficient to approve the motion. In arriving at the decision to approve the Musselburgh Flood Protection Preferred Scheme the Council acted ‘ultra vires’ (beyond their powers) by failing to comply with the Local Government (Scotland) Act 1973

The Local Government (Scotland) Act 1973 requires every local authority in Scotland to comply with the legitimate administration of their financial affairs. The reduced cabinet on 21/01/2020 did not have the power to approve the budget. On this basis there was a breach of trust between the council and their electorates.

By approving the preferred scheme on the 21/01/2020, ELC’s Councillors prejudiced the continuing development of the plans for the MFPS. The development proposed is very significant and its overall impact has huge consequences.

In determining decisions which involve the expenditure of public funds ELC have a duty to comply with pertinent law as well as internal guidance and due process that applies. In acting ‘ultra vires’ the cabinet failed to meet the required obligations.

Yours sincerely

[REDACTED]

Subject: (0141) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:34:18
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [OBJECT ACCESS BEACHES.docx](#)

Categories: [REDACTED]

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Yours sincerely
[REDACTED]

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15th April 2024

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

I wish to object to the proposed Musselburgh Flood Protection scheme

The Land Reform (Scotland) Act puts a duty on the Council to uphold access rights and gives the Council the powers to do this.

The Musselburgh Flood protection proposes to limit access to Existing Core Paths Musselburgh (Map D Musselburgh North) in order to develop the MFPS. Access to these paths and the beach owned by the Crown Estate cannot be obstructed.

The Access Code says: Access rights extend to beaches and the foreshore.

The people of Musselburgh have a historic right of way to access the river and beach. Open access has been historically available for centuries whether for collecting shellfish from the beach or taking enjoyment from the river. East Lothian Council have no right to restrict or reduce public access to these areas. Historic law takes precedent in this case.

Until relatively modern times, no laws were passed to create public rights of way. Instead, the routes became accepted under the common law as having been public since time immemorial. The legal theory was that the landowner “dedicated” the ways as public: the public use being evidence of this. Statutory access rights apply to the majority of land and inland water in Scotland and public rights of way, public roads, core paths, heritage paths, Scottish Hill Tracks, Scotland’s Great Trails and desire lines may run through an area where a development is proposed. As part of the process of planning to develop a site, it is advisable for the developer or his agent to review the current amount and type of public access across it and present this as an access statement (for small-scale proposals) or access management plan (for larger scale proposals). This should include identifying existing rights of way, core paths, other paths and tracks through and adjacent to the site, and take account of how the statutory right of access currently affects the site. The outdoor access statement/plan should set out how existing routes and access rights will be affected by the proposed development, what the developer proposes to do to minimise any adverse effects on them and what opportunities it proposes to take to enhance public access through the site. This information has not been made available within the proposed MFPS.

How will the current level of public access be affected by the proposals? Will it make it worse, keep it the same or make it better? It’s not just the effects post-development that should be considered. How will public access be affected during the construction phase of the project? What needs to be done to maintain the continuity of public access.

With regard to : <https://www.scotlawcom.gov.uk/files/7212/7989/6603/rep190.pdf>

3.13 In the draft Bill the right of recreation has been defined to take account of the activities currently enjoyed by the public on the shore. We therefore include: bathing, swimming and sunbathing; making sandcastles and playing games; having picnics, lighting fires and cooking food; and beachcombing. Beachcombing involves the collection of small inanimate objects including the driftwood which has traditionally been used to light fires for picnics. Such objects must have been washed up by the sea, be of negligible value and capable of being carried away by hand. In addition, they must have been abandoned by their owner and therefore be ownerless but for the rule that such property belongs to the Crown. Thus, for example, the right of beachcombing would not apply to fish boxes left on the shore but not abandoned. Given that property which may be collected when beachcombing belongs to the Crown, we have provided that the beachcomber becomes the owner on exercising the statutory right. The list of recreational rights is non-exhaustive and such rights are additional and ancillary to the access rights in respect of the shore and foreshore conferred by the 2003 Act.

3.17 We therefore recommend that: 5. (i) Statutory public rights should apply to the shore as well as the foreshore. (ii) There should be a statement of the statutory public rights which apply in respect of the shore and foreshore. 6. The statutory public right to gather shellfish on the shore and foreshore should include the right to gather mussels and native oysters unless there has been an exclusive grant of the right to gather such shellfish. 7. The public right to shoot from the foreshore wildfowl which are on or over the foreshore, or the sea should be retained as a statutory public right but not extended to the shore.

By restricting public access by the building of a wall, access would be limited.

Additionally, THE MUSSELBURGH COASTAL CHANGE ASSESSMENT FINAL REPORT (February 2024) Dynamic Coast analysis to inform East Lothian Council Flood Scheme states that building coastal defence walls would result in greater loss of the shoreline and beach area. Loss of this amenity would impact on the usage and access and would contravene the public's historic human rights

The public has the usual rights of access on the foreshore under Part 1 of the Land Reform (Scotland) Act 2003. However, common law rights in relation to the foreshore existed before the 2003 Act, and provide more extensive public rights than are contained in the 2003 Act. In addition to the kind of activities that are covered by the 2003 Act (e.g. walking, bathing, picnicking and playing games) the common law gives the public the right to light fires, fish in the sea, gather shellfish, and shoot wildfowl above the foreshore or sea. These additional rights at common law only apply to the foreshore of the sea and other tidal waters, and so do not apply to the banks of non-tidal waters.

Access is available to the foreshore by boat from the sea, but the public can only use the foreshore from the landward side if there is a legitimate means of access by land. Access rights under the 2003 Act will now usually provide such a means of access, but not for motorised vehicles which are excluded from the Act. In the past, the need for access led to many disputes about whether there was a right of way to the foreshore. A particular point on the foreshore can become a 'public place' in the sense of being a proper terminus for a right of way if the public have been in the

habit of resorting to it for a particular purpose such as fishing, loading or unloading vessels, or bathing and recreation.

East Lothian Council does not own the foreshore and therefore has no right of access to it or to separate it from the mainland without the consent of the owner foreshore area

ELC does not have the judicial right to undertake the construction of flood prevention infrastructure on the Musselburgh foreshore

Yours sincerely

██████████

ELC are advised by engineers CPE Consultancy The public have no paid advisors

The council serve us. We should be entitled to answers to questions

Evidence of emotional distress anxiety, fear, confusion and stress at our letter writing help group. See the health effect trying to save our town is taking its toll

Subject: (0142) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:35:53
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [OBJECTION PLanning v2.docx](#)

Categories: [REDACTED]

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Further to my letters to Mr Grilli I include an email copy of my objections to the MFPS to ensure that they are all read and responded to.

Please confirm receipt of these objections.

Please note that I require written responses to the main address [REDACTED] and not via email.

Yours sincerely

[REDACTED]

[REDACTED]
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**To The Service Manager – Governance, Legal Services,
East Lothian Council, John Muir House, Haddington, EH41 3HA**

**I / We wish to object to the proposed Musselburgh Flood Defense
Scheme for the following reason: 17/04/2024**

The intended beneficiaries of MFPS and MAT should be the residents of Musselburgh. My naive assumption is that it was 'the residents of Musselburgh' but now I realise it is the council leader, the Provost, the councillors, the ELC officials - all of whom decided getting all this money into Musselburgh must be a 'very good outcome for all'. If you turned it around and asked - what would the residents of Musselburgh like to see happen in their town, it would not be what is being proposed.

The previous commitment to advance the Musselburgh Active Town through the FRM consents process was always speculative and has now been proved wrong. If there is currently confusion about this issue, then the cause of this arguably lies with the previously incorrect information that was being circulated as fact, in all the materials presented to the public. Even now at the point where the public have a right to object, the inclusion of a design that incorporates elements *for* MAT but does not include MAT is confusing and misleading for the residents of Musselburgh and impacts directly on their ability to object to the proposed MFPS.

The FRM consents for MFPS are intending to approve a design that has built into it the design for the MAT, i.e. 5m wide cycle routes, position of the flood wall, inclusion of Ivanhoe bridge, design of the ramps, etc. Peter Forsythe has been asked to specify exactly how the requirements of MAT have influenced the design of MFPS and has refused to answer. The proposed MFPS design is using the dubious distinction between 'physical assets of MAT' and 'MAT routes' to justify this. In the proposed design, clearly the two are connected and cannot logically be detached. This permits the MFPS & ELC to smuggle in MAT design requirements as part of MFPS (and also to cover some of the costs of MAT). You yourself, Mr Grilli, have acknowledged that the MFPS will likely incur higher costs because of its inclusion of MAT design features. My support group MFPAG have a very clear statement to that effect from you. Therefore, I would argue that elements of MAT are indeed being included in FRM, hence in the consenting process. I strongly object to this.

What the Design Team, ELC Officers and ELC Councillors are trying to do is to progress the flood scheme with wide paths, ramps and bridges as necessary parts of the flood protection scheme, even though they themselves do not protect from flood. This is so that later, these 'approved' wide paths can be presented as 'existing' and ELC will simply apply for change of use (designation) of these to ATP.

As there are no physical elements being constructed under that application, the public will only be able to make representations on the change of use. Thus, the public will never get a say on the physical side of MAT in the town centre.

It is a sneaky way of silencing objections to MAT, and I have no doubt it subverts the Town and Country Planning Act (Scotland) 1997 Act and is therefore not allowed. Should the planning department back them and the minister does not uphold the objection, the only way to restore people's rights of representation on the physical aspects of MAT would be via legal action. There are several firms that would be prepared to assist with this. Win or lose, ELC would be the poorer for such an action were it to proceed.

To knowingly engineer a process by which people would be deprived of their democratic rights, to make representations on physical structures proposed for their neighbourhoods and environment would be to subvert the Town and Country Planning Act (Scotland) 1997.

I therefore object to the proposed scheme due to the effect that the proposed MFPS will have on myself, my family, the value of my rental assets, my enjoyment of easy access to the river and beaches of Musselburgh. I also object in order to support everyone else who lives in Musselburgh who objects to the proposals for the reasons stated above.

Yours sincerely

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Subject: (0143) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:36:51
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [OBJECT Coastal Change Adaptation Plan.docx](#)

Categories: [REDACTED]

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Please confirm receipt of these objections.
Please note that I require written responses to the main address [REDACTED] and not via email.
Yours sincerely
[REDACTED]

[Redacted]
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[Redacted]
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[Redacted]

[Redacted]
(Proprietor)
[Redacted]
[Redacted]
[Redacted]

[Redacted]
(Joint Proprietor)
[Redacted]
[Redacted]
[Redacted]

16th April 2024

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

I wish to object to the proposed Musselburgh Flood Protection scheme I wish to object to the proposed Musselburgh Coastal Change Adaptation Plan.(MCCAP)

The proposed MCCAP shows a lack of observation of the recommendations made by the Dynamic Coast statements from their report in italics below and attached in full.

MUSSELBURGH COASTAL CHANGE ASSESSMENT FINAL REPORT (February 2024) Dynamic Coast analysis to inform East Lothian Council Flood Scheme

Carried out by:

MacDonell, C., Hurst, M., Rennie, A., Hansom J. & Naylor, L. (2024) Musselburgh Coastal Change Assessment. East Lothian Council & Dynamic Coast. DynamicCoast@nature.scot

I have lived in the area for over 30 years and I own two rental properties in Musselburgh. The main attraction of living and renting in Musselburgh is the accessibility to the coastal area. The proposed scheme could impact significantly on my income due to the loss of this asset.

I also object to the scheme as it is not in keeping with current guidance

Councils and Councillors are responsible for acting in the Common Good. It is my view that the summary Environmental Impact statement created to aid East Lothian Councillors and the population of Musselburgh has failed to adequately inform them of the full range of options that should be considered to protect Musselburgh. The advice given in the report has been significantly whitewashed by their advisors acting in the interests of the Schemes designers Jacobs. Jacobs stand to gain significantly greater profits by designing a hard engineered solution. Dynamic Coasts report is critical of the proposed solution and its long-term benefit.

The report also points out the sea does not have boundaries and that any scheme should be designed with the involvement of all Local Authorities to ensure that negative consequences do not affect other local Authority areas.

Adaptive approaches which ‘jump directly’ to address risks not expected until the end of the century may prove more costly MUSSELBURGH COASTAL CHANGE ASSESSMENT (2024) Page 30 of 49 in the short-term and risk losing community support, however in some cases this may be desirable where, for example, continuity of supply is critical. Scottish Government (2023) Coastal Change Adaptation Guidance, Pg 6. Furthermore, the Guidance notes that coastal adaptation planning processes should identify areas of the coast where: a) natural or artificial defences in a fixed or semi-fixed position will be needed in the long term; b) no active intervention is needed and free coastal change is accepted;

and c) managed re-alignment of the coast would be a more effective strategy in the long-term. Scottish Government (2023) Coastal Change Adaptation Guidance, Pg 7

The Guidance goes on to stress the importance of working with natural processes, monitoring change, engaging with communities, working across boundaries and place-based working. Authorities will be required to run place-based coastal change adaptation planning processes that include community engagement activities incorporating co-design concepts. CCAPs should also use technical information from Dynamic Coast, SEPA and consultancy services

The proposed Coastal Adaptation plan may put other communities at risk as it is restricted by ELC council boundaries and does not take into consideration the impact that the implementation of the proposed scheme may have on the coastline towards the City of Edinburgh

CCAP Stage 1: The Policy Approach CCAP Stage 1: The Policy Approach The Guidance states that: "Where a Shoreline Management Plan already exists, it would not normally be necessary to start again. In these cases, the existing Plan should be reviewed and updated in line with this guidance. In general, any plan should be driven by coastal processes and the interconnected nature of coastal communities and not by Local Authority or other administrative boundaries." Scottish Government (2023) Coastal Change Adaptation Guidance, Pg 13.

ELC's current coastal management policy and the proposed position of the flood management structures mean that short-term coastal management options focus on maintaining the current configuration, and thus alternative approaches (e.g. managed realignment and/or adaptation by relocating assets) may not have been fully considered since SMP publication. Nevertheless, ELC's coastal management policy doesn't explicitly consider how 'Hold the Line' will change, as climate risks increase. This represents a discord with the Guidance meriting its reconsideration within a wider review (Scottish Government, 2023, p. 16; Table 1). A 'health check' of the existing SMP is needed as the CCAP is developed. Such work should reappraise the assets at risk, including flood risk aspects as well as the demographics, development considerations, and economics of each area.

A future based on a 'do nothing' coastal management strategy

All management options need to be compared against a 'do nothing' coastal management baseline. This ensures that existing coastal management is not taken for granted. Such a situation for a high emissions future is shown in Figure 13 (bottom). In this instance the existing known coastal protection structures provide protection to an arbitrary distance of 25m inland. Whilst this is shown as a simple 25m buffer, in reality, the impacts from, for example, a sea wall failing are unlikely to be linear. Figure 13 shows erosion is allowed to propagate inland where the shoreline is natural (i.e. free from artificial coastal defences), and the underlying geology is thought to be readily erodible. Under this situation where the existing defences are present, but not maintained, then a range of assets are expected to be at risk under a high emissions scenario, including up to 19 residential properties, up to five non-residential properties, up to 95m of road and a range of water-related infrastructure (see Table 3). Under a low emissions scenario, and in the absence of coastal management, the anticipated erosion still occurs, but at a later date and across a more limited frontage. Fewer assets are expected to be impacted.

As acknowledged by the Committee on Climate Change (Scottish Government, Committee on Climate Change, 2022) “it is unrealistic to promote a hold the line policy for much of the coastline (i.e. employing hard or soft engineering to prevent further erosion), and realistic plans to adapt to change are needed.” Given the importance of the community assets along the coastal frontage at Musselburgh, it is recommended that careful consideration of longer-term risks occur by ELC establishing a CCAP using a Dynamic Adaptive Pathways approach.

The concept of moving community and assets away from the current shorefront may seem foreign and unnecessary to today’s residents. However, increasing numbers of communities around Scotland and elsewhere are realising that the way they have used their coastal areas in the past may not be realistic in the future. Musselburgh will not be alone in this regard. But if climate change and associated rising sea levels remain unaddressed, coastal erosion will quicken and beach levels will lower (as discussed above), and the risk to shore front community assets will be substantial, and very different to those experienced by today’s residents and communities. Adaptation by avoidance is a key planning approach that should be considered in the forthcoming Coastal Change Adaptation Plan.

***ELC are directed toward the Stage 2 section of the Guidance (Scottish Government, 2023) and encouraged to consider other CCAPs which are in development, including the Moray CCAP.** Based on this it is acknowledged that ELC would be at Phase 0 (i.e. the start of the adaptation **process**), and as such the range of future management options need to be appraised locally for each Coastal Change Management Area, and trigger points considered. We acknowledge that the partial ‘Hold the Line’ policy remains, and that initially this may extend across the full Musselburgh coastal edge. However, future management approaches may, or indeed need to, differ as conditions change. For example, the current expectation is that the existing beach levels offer reasonable protection and require only local enhancements. However, within only a few decades, depending on the progression of erosion, the rate of sea level and the frequency and intensity of future storms, the requirements for beach nourishment and renourishment will increase. Trigger points should be defined to consider when and where beach feeding or alternative actions should occur. Such trigger points could be thresholds in the position of a shoreline indicator, such as MHWS, a threshold in volumetric beach losses, or a threshold in beach gradient. Additionally, if land-use changes occur (e.g. facilities are moved, such as the water treatment works) then there may be less imperative to maintain natural and artificial defences. At this trigger point, alternative options may be considered to transition towards a Managed Realignment approach, where other assets are moved to more inherently resilient land. To take this forward, we encourage ELC to work with communities and adaptation specialists to define what their vision of long-term adaptation looks like and outline the range of possible management approaches required to deliver this adaptation to support the desired outcomes.*

Whilst it is for ELC to define their own monitoring strategy, we recommend a minimum of six-monthly topographic surveys of the available intertidal area, preferably at MLWS. We also recommend continuing to explore the potential for using remote sensing techniques as part of an automated early warning or trigger system. Liaison with other local authorities, Dynamic Coast, the Scottish Government, and the university sector is strongly encouraged, as this is a key area which authorities can learn from each other and benefit from collaboration.

Recommendations

- 1. We recommend that ELC consider establishing a beach monitoring programme to provide the data to underpin and inform both the trigger points and any consequential short-term*

resilience and long-term adaptation actions. 2. We recommend ELC consider developing adaptation measures initially for areas where the resilience of natural shores is low (including nature-based approaches) but broaden these to become a 'whole beach' approach. Local beach feeding of the most vulnerable areas will lead to swift redistribution of sediments, so the council may find it wise to invest efforts to rapidly upscale to a 'whole beach' approach to effectively manage any change at the appropriate scale. We suggest that the evidence means that the council consider this as an urgent task, and we recommend that no time should be wasted in developing these resilience and adaptation actions. 3. We recommend ELC undertake a CCAP for its entire shore frontage, but to prioritise the Musselburgh section to ensure alignment with the planned FRM works. As part of this CCAP, we recommend the short-term measures suggested here be thoroughly investigated alongside several longer-term adaptation options aimed at enhancing both the resilience of the coast and keeping the community safe as climate change progressively impacts both them and their assets. Such an approach has substantial benefits beyond the proposed flood scheme and is in support of ELC's planning and climate change duties.

Yours sincerely

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Subject: (0144) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:37:27
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [REDACTED] [OBJECTION TO CONSULTATION ANALYSIS.docx](#)

Categories: [REDACTED]

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Please confirm receipt of these objections.
Please note that I require written responses to the main address [REDACTED] and not via email.
Yours sincerely
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17th April 2024

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

I wish to object to the proposed Musselburgh Flood Protection scheme Extracts
of key points from the: SCOTTISH GOVERNMENT CONSULTATION GOOD PRACTICE GUIDANCE

Definition ▪ Consultation is defined as: A time-limited exercise, when specific opportunities are provided for all those who wish to express their opinions on a proposed area of work to do so in a way which will inform and enhance that work.

▪ When you commit to a consultation process, especially a traditional written consultation, you are also committing to being open and transparent about the responses you receive. ▪ You should aim to produce a final report/paper providing a statement of what was asked; how people responded; what has been done as a result or is going to be done and why. ▪ This might be uncomfortable if responses have not supportive.

I DEMAND AN AUDIT OF THE PUBLIC MEETING JUNE 2023 QUESTIONNAIRE SUMMARY PROVIDED BY JACOBS due to a lack of confidence in their summary of comments as these do not fit with the majority views of those that attended the public meeting.

Considerations: Consultations should be open for a minimum of 12 weeks.

If your consultation is live over a public holiday period, such as Christmas, or over a period like the summer holiday, when key people you want to respond might be on leave, then it is good practice to extend the consultation beyond 12 weeks. ▪ Remember the Consultation Principles – give adequate time for response.

Capturing event information for analysis ▪ Consider how you will capture what happened at the event. ▪ Even if an event went really well, it will have been a wasted opportunity if you haven't captured findings from it to feed into the analysis process. ▪ It can also lead to 'consultation fatigue' if people take the time and effort to attend and contribute to an event, but feel that it has had no effect. This can lead to them being less willing to contribute in future. ▪ You should ensure that good notes are taken that accurately capture any discussion at events. ▪ Remember that it is very hard to facilitate a discussion and take good notes at the same time, so you might want to consider having a separate facilitator and note taker for event discussions or delegating the role of note take to one of the attendees.

What is a valid response ▪ Any response to a consultation is valid provided that it is relevant to the subject matter of the consultation.

Anonymous responses are valid provided that they relate to the subject matter.

If you receive a response by post or email, there is a little more work to do to process them. There are two aspects to this: - First you need to establish a process right at the beginning to record and receipt responses so they do not get lost. It is essential to acknowledge all responses received to the

consultation exercise. - You will need to do this manually by email or by post. - Second you need to establish a process to ensure the content is part of the analysis

Publishing responses

This should ideally be completed within 3 months of the consultation closing but it is acceptable to publish alongside the analysis report.

Why Analyse?

- Analysis of responses is necessary to capture and summarise the results. ▪ You are responsible for ensuring that the consultation is analysed fairly, rigorously and systematically and that the results are reported back.
- The analytical process should be transparent, rigorous and systematic. It should include all valid responses (ie. all responses that are relevant to the subject matter) ▪ It should be able to stand scrutiny from external parties.

Reporting Back

- This stage has two aspects: - First reporting back on what people have said in response to the consultation - And secondly saying how you have used that feedback – ‘what difference did it make?’
- It is advisable to ‘get back to people’ within the same length of time as you gave them to respond to your consultation i.e. within 12 weeks of the closing date.

Reporting how you used the analysis

- Providing feedback acknowledges the effort involved in making a submission to a consultation paper or attending an event.
- It demonstrates that the responses have been used and can thus help achieve transparency and reduce the risk of “consultation fatigue”.
- Your report should be transparent and the justification for any decisions should be clear.

It is my belief that ELC and their consultants failed to meet the objectives of the Scottish Governments Consultation Good Practice Guidance.

I therefore request a public enquiry into the handling of public consultation by East Lothian Council and their appointed representatives.

Yours sincerely

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Subject: (0145) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
Sent: 19/04/2024, 08:38:05
From: [REDACTED]
To: Musselburgh Flood Protection Objections
Attachments: [Acting illegally.docx](#)

Categories: [REDACTED]

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Please confirm receipt of these objections.
Please note that I require written responses to the main address [REDACTED] and not via email.
Yours sincerely
[REDACTED]

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.

The public has been misled.

In arriving at the decision to approve the Musselburgh Flood Protection Preferred Scheme the Council acted ultra vires by failing to comply with the Local Government (Scotland) Act 1973

- The Local Government (Scotland) Act 1973 requires every local authority to make arrangements for the proper administration of their financial affairs – the reduced Cabinet did not have the power to approve the budget.

- On this basis there was a breach of trust between the council and their electorates.

- By approving the preferred scheme they prejudiced the emerging plan. The development proposed is substantial and its cumulative effect significant.

- 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 On this basis there was a breach of trust between the council and their electorates.

- By approving the preferred scheme they prejudiced the emerging plan. The development proposed is substantial and its cumulative effect significant.

- 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