# Members' Library Service Request Form

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EAST LOTHIAN COUNCIL
RECEIVED
22 APR 2024
LEGAL & PROCUREMENT

[redacted]

11 April 2024

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

Dear Sir

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

I live in the [redacted] and will be directly affected by the proposed work to be undertaken to replace the existing wall which separates the beach [redacted]

I object to the published scheme because:

- **Dust, dirt, noise, disruption:**
  The replacement of the existing structure will doubtless involve noise, dust and disruption to beach access. I realise it is difficult at this stage to definitively assess the length of time this part of the project will take. But it is reasonable to assume that the demolition of the existing wall and construction of its replacement would take months rather than days or weeks.

  The result of this would be excessive dust, noise and disruption, not only to me [redacted] but more importantly, to the elderly residents of Harbour House, a care home within the Morar Living group. Harbour House is a home that creates a place for residents to live and enjoy their lives.

  It is indisputable that extensive demolition and construction works will have a deleterious effect on the quality of life of the residents. Indeed, it is conceivable that the care home would suffer dire economic effects from the works, inasmuch as the home would become less attractive to new residents for the duration of the works.

- **Loss of amenities**
  For the duration of the works, residents would be denied access to the beach and the car park. Children would be denied access to the playground.

The construction of a 1.1m high wall would seriously detract from the utility of the playground for both children and their parents.

- **Value for money**
  Does the project represent good value for money? Who knows? It is impossible to tell without either an alternative scheme as a comparator or an independent assessment of the scheme.

  In the absence of either of these, we have no way of knowing whether or not taxpayer money is being used in the most cost-effective way.

- **Aesthetic value of walls**
  Walls, in and of themselves, may have an aesthetic value on the right context, depending on the quality and type of material used.

  However, there is abundant evidence that walls built for the purpose of flood protection tend to attract graffiti, which significantly detracts from any aesthetic value the walls may have.

  Here is an example of walls suffering graffiti in a flood protection scheme in Hawick

  https://www.bordertelegraph.com/news/24102143.flood-defence-wall-hawick-high-school-car-park-vandalised/

  There is no reason to suppose that the same situation would not prevail in Musselburgh.

- **Removal of trees**
  The removal of so many trees along the River Esk, coupled with the narrowing of the river would appear to increase the risk of fluvial flooding rather than reduce it.

  Unless, of course, the purpose in removing the trees and narrowing the river is to justify the heights of the walls along the river.

  Indeed, land managers across Scotland are being urged to take note of new forestry guidance on using trees as natural defences to minimise the risks of flooding.

  https://forestry.gov.scot/news-releases/using-trees-to-combat-flooding-new-guidance

  I have seen no evidence to demonstrate that the project team has considered the efficacious use of trees to ameliorate potential flooding. Indeed, the team's proposals would have the opposite effect.

- **Carbon emissions**
  It is difficult to see how the scheme's anticipated production of more than 38,000 tonnes of $CO_2$ could square with the Scottish Government's published trajectory to net zero emissions by 2045
  https://www.gov.scot/policies/climate-change/
  https://www.gov.scot/publications/securing-green-recovery-path-net-zero-update-climate-change-plan-20182032/pages/2/

- **Time and budget**
  Despite the project team's best endeavours, history indicates that both time and financial targets will overrun.

  https://cinmagazine.co.uk/the-uks-most-over-budget-construction-projects/

  https://www.heraldscotland.com/news/13197519.delayed-over-budget-recent-history-scotlands-major-capital-projects/

  This is historical data. What evidence can the project team produce to demonstrate that this project would be any different – after all, the project's estimated cost has risen by an order of magnitude since the initial proposal. Taxpayers are being asked to sign a blank cheque.

- **Wall maintenance**
  I understand that ELC has made no revenue provision for the ongoing maintenance of project infrastructure.

  This being the case, it is likely that, walls along the river and sea will become targets for graffiti, and that, during their anticipated lifespan the appearance and utility of them will degrade.

  https://www.pressandjournal.co.uk/fp/news/inverness/582051/hunt-for-graffiti-artists/

In conclusion, it seems to me that the entire concept of the FPS is rooted in an inexplicable faith in hard engineering as a viable – and, indeed, desirable – solution to a problem which may or may not happen within the lifetimes of not only ourselves, but those of our children and our children's children.

Work on flood protection in other parts of the world appears to indicate that flood protection schemes which work with – rather than against – nature, are cheaper and more effective than the proposed hard engineering solution proposed.

Yorkshire can do it – why can't we?

https://www.independent.co.uk/climate-change/news/uk-flooding-how-a-yorkshire-flood-blackspot-worked-with-nature-to-stay-dry-a6794286.html
https://yorksandhumberclimate.org.uk/nature-based-catchment-solutions

Yours faithfully

[redacted]

[redacted]

(11)

Fee to pay
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Item
underpaid

17 APR 2024
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ROYAL MAIL
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SERVICE MANAGER
GOVERNANCE, LEGAL SERVICES
EAST LOTHIAN COUNCIL
JOHN MUIR HOUSE
HADDINGTON EH41 3HA

EAST LOTHIAN COUNCIL
RECEIVED
22 APR 2024
LEGAL & PROCUREMENT

[redacted]

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

Date 22/04/2024

To whom it may concern

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

I am an interested party given that I am the owner and live in [redacted] Musselburgh and my house backs onto the beach to the North of my property and the house is [redacted] of the Harbour.

I have disturbance and security concerns and also privacy concerns plus specifically on [redacted] access to the beach that was the main reason for purchasing this house.

I do not believe that I should be asked to accept limited access to the beach or that I should accept less privacy or a public walkway [redacted], and a gap between [redacted] garden wall and the sea wall I find ludicrous and feel strongly this could become an unofficial pathway plus be a littler trap and vermin issue.

I feel I was assured that there would be no walkway [redacted] at the beach, but there clearly is.

I worry this project could damage our property and I have no guarantee that this will not happen.

I feel we should have been offered more than one option at the very least to allow us to consider the best possible solution for all [redacted]

I am not very good with words and in the absence of any legal advice I would like to object on all levels, this project should be paused and a clearer agreeable solution should be found.

I was advised along with my neighbours at a meeting [redacted] by an ELC appointed person that the flood defenses would be needed at the turn of the century and I feel with 75 yearS still to pass until then that this scheme is flawed and unnecessary at this time.

I would urge that a pause is put in place to give time to investigate further and find more solutions that may work and be more acceptable.

I would urge that you take into account the changes in technology that may be available well before the defenses are needed and much more suitable for the project and area.

Please can I ask kindly that you acknowledge my objection in writing and if you have any information to show that future technology has been considered?

Many Thanks
[redacted]

**Subject:** (0256) Objection to proposed Musselburgh Protection Scheme
**Sent:** 22/04/2024, 17:39:15
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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

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

Good afternoon,
I am writing to object most strongly to the environmental destruction that will result from aspects of this proposed scheme. I have lived close to the Esk Valley [redacted] and continue to enjoy its scenic, environmental and recreational benefits. During this time I combined a stressful job [redacted] my love of the Esk Valley and [redacted] I have had the privilege and enjoyment of horse ownership and riding in the Dalkeith Estate. The benefits to my mental and physical health were and still are immense.
I regularly ride through the woods, along the the river bank and across the river at the site of proposed access for heavy traffic involved in construction of a debris catcher for this scheme & am perplexed as well as horrified about the logic of this proposal and the environmental destruction which will result. I have no knowledge of the engineering processes involved but access to the river is extremely steep at this point and will involve felling of numerous trees as well as large scale loss of wildlife habitat which seems to me to be completely avoidable as I gather there are alternative ways of reducing flood risk. Access will also result in loss of valuable farmland as well as heavy and polluting traffic in this quiet estate popular with families & dog walkers.
In addition I am extremely concerned about the effect of the scheme on the upstream Esk Valley as a whole. Its natural beauty is a fantastic amenity for local residents and attracts visitors from around the world but the river banks are fragile and need to be protected. This scheme will have the opposite effect.
[redacted] benefiting from learning to ride & enjoy nature in this currently quiet & beautiful environment and it saddens me that so little thought seems to have been put into the adverse effects of what is being proposed.
I welcome a response to this email (sent 22/4/24) Yours faithfully, [redacted]

Sent from my iPad

**Subject:** (0257) Flood Protection Scheme - Loss of EEC Horse Bridle Paths
**Sent:** 22/04/2024, 18:02:19
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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

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Monday 22nd April 2024

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

Dear Sir / Legal Services

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

These are my reasons for objection to The Scheme:

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

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

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

4/ Environmental Impact: The construction of the access road for the debris catcher will result in the loss of grazing land. The construction and extraction process will disturb and worry the livestock. It will damage and destabilise the fragile high river bank path resulting in landslips.
Hundreds of trees and the natural path will need to be destroyed in order to build a road wide enough for the construction and debris extraction vehicles. The destruction of trees and natural habitat will be damaging to the wildlife in this location. There are deer, foxes, hare, buzzards, bats, squirrels, possibly badgers and other creatures too numerous to list in this woodland. In this world of climate change activists we are supposed to be saving trees not destroying them for a poorly designed flood protection

plan that is likely to cause more flooding and environmental damage than if no action was taken at all. It is an absolute disgrace that the designers have concluded that it is acceptable to destroy this area of natural beauty and the wildlife that occupies it when the proposed debris catcher will actually do more harm than good. The proposed mitigation plans are woefully inadequate and poorly thought out,

5/ Flood Risk: Common sense and logic would make a sensible person conclude that the proposal to narrow the river in Musselburgh is more likely to cause flooding in Musselburgh and also damage the environment by causing areas upstream to flood. This will increase erosion and cause multiple landslips along the already fragile and crumbling Esk Valley.
Additionally my experience of debris traps is that when they are blocked and a dam is formed, there are never any Council resources available to deal with the blockages in a timely manner and the surrounding areas become severely flooded. The debris catcher will ensure more areas along the Esk will be flooded than before. The plans for a debris catcher should be removed completely from the scheme.

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

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

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

Yours Faithfully

[redacted]

**21st 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 for the following reason: The EIA accompanying the Musselburgh Flood Protection proposed scheme is in adequate and does not fully take into account the implication on Bird life and bird watching in Musselburgh and along Musselburghs foreshores.**

The failure to undertake a fully investigated review of the effects and implications for wildfowl and birdlife in Musselburgh and along the Musselburgh foreshore has implications for me personally as an avid birdwatcher, for my friends that visit Musselburgh frequently for birdwatching and the wider economy of Musselburgh. Musselburgh is considered one of the top UK birdwatching sites and is promoted as such as a national level. As a former member of the East Lothian Tourism forum I worked diligently for many years to have Musselburgh promoted and recognised as a top holiday destination for birders.

The results presented in the EIA report from surveys of shoreline and coastal birds are not detailed enough to provide assessment of the impact of the scheme on the internationally and nationally designated sites around Musselburgh. It is not possible to judge if mitigation measures are adequate without this data.

The desk study part of the baseline data collection has also been inadequate. Both survey results and relevant pre-existing data on bird species present, and their national and local population trends, and insights into relevant behaviour is absolutely necessary. The desk study in the EIA report also fails to include useful data from the East Lothian Council Ranger service, the British Trust for ornithology (BTO) and the Scottish ornithologist's club (SOC)

The EIA gives the agglomerate count figures of birds but should give species specific data. Additionally, the data used is out of date. The most recent data available up to 2022/2023 should have been used not the 2013 to 2017 data contained in the report. The EIA is therefore misleading and inaccurate rendering it not fit for purpose.

There are also concerns about the accuracy of the baseline survey. It contains significant anomalies about the species of birds observed which makes one question the accuracy of all the information provided.

Also counting was done when two of the lagoons were under construction activity during 2021 to 2023 which created considerable disturbance and which is not therefore representative, and according to Nature Scot bird surveyors should have been aware of. **According to Nature Scot bird surveys should not take place where there is disturbance that could affect the abundance, distribution or behaviour of birds within the survey area.**

The EIA report attempts to identify and quantify loss of habitats from the scheme but it does not identify the main habitat impact of the scheme namely the loss of shoreline and intertidal habitats over its proposed 100 year operational life. Hard defence structures along the coast create 'coastal squeeze'. This impact is not even mentioned in the EIA report biodiversity chapter, let alone assessed. EIA does not meet its own commitment to give an appraisal of the future baseline without the scheme in order to assess the possible effects of the scheme if it goes ahead.

Habitat loss from 'coastal squeeze' must be assessed properly. Not to do this goes against the council scheme objectives that 'the scheme will achieve as a minimum a neutral impact on the environment' and also that it will 'protect the Firth of Forth and its protected statuses'. ELC has an actual duty to protect and enhance biodiversity which cannot be fulfilled in this case without the necessary detailed bird data to assess the impact of the scheme and design mitigation.

There is repeated downplaying of Conservation importance in the EIA report, without any evidence for why this might be acceptable. There is no mention of the fact that many waders and waterfowl in the Firth of Forth have already suffered long term decline due to development impacts and the impact of Avian Flu. Another example of this downplaying is the unsubstantiated claim that ' the area temporarily lost during construction constitutes a narrow linear area adjacent to the coastline which experiences high levels of disturbance from public use. This area is not considered to be an important habitat for qualifying interests of the Firth of Forth designated sites in comparison to the large expanse of sand flats along the coastline and the lagoons at Levenhall links'.

There is no evidence to back up these assertions on factors such as prey availability or exposure to disturbance or any of the other influences that need to be considered in order to assess these impacts.

The EIA report notes that 'the improvements to the active traffic network particularly along the seawall and the proposed Goosegreen bridge may result in increased pedestrian and cyclist traffic which may create increased operational disturbance to qualifying bird species' The report makes it clear that it's uncertain whether the cycle paths will result in increased active travel in which case how can the expenditure, the additional risk of impacts on internationally and nationally designated bird sites, and the carbon footprint of constructing these two elements of the scheme, be justified without strong independent evidence that there will be sufficient active travel benefits. These two elements need to be removed from the scheme not least as there are already foot and cycle paths along the relevant sections of the scheme coastline.

Finally consider the impacts on recreational amenity over the construction period, specifically for birdwatching. Musselburgh is one of the most visited birdwatching sites in Scotland enjoyed by hundreds of visitors every year. This tourism and amenity value of the scheme area for birdwatching is not given recognition in the EIA report and as a result there is insufficient attention given to mitigating disruption to this activity. This is significant because the schemes construction phase could take a period of 5 to 10 years, imposing long-term damage to the area's use and reputation as an ornithology visitor attraction.

I therefore object to the proposed scheme due to the lack of information regarding the impact of the proposed MFPS contained in the supporting EIA, the inaccuracy of the EIA and the impact of birdlife of the proposed scheme as it does not meet the ELC's target of the proposed scheme 'achieving a minimum a neutral impact on the environment'

Yours sincerely

[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 reason:**

**I object to the lack of accountability for Jacobs Engineering on reporting and the design the proposed MFPS. I believe that Jacobs Engineering have manipulated the project design for their own financial benefit putting that ahead of the necessity, the design and the impact on myself and the people of Musselburgh. I am objecting as a Scottish Taxpayer, ELC Taxpayer and resident and property owner in Musselburgh & East Lothian.**

**2st April 2024**

Most of the advice on the scheme is being supplied by the companies who stand to make a lot of money from it. SEPA's own figures and Dynamic Coast's own figures have had input from Jacobs Engineering, the company who stands to make many millions. The Scottish Government has delegated responsibility for the flood scheme to local councils, who do not have the expertise in-house. They are at the mercy of the consultants.

Jacobs commissioned a survey company called L&M surveys to do a coastal survey in 2022. As they were commissioned by Jacobs, the report cannot be considered independent.

Dynamic Coasts has undertaken and used five separate independent surveys uninfluenced by financial motivation or commercial interests.

Dynamic Coasts questions the wisdom of building the sea wall as MFPS has proposed. This is the first time that there has been independent scrutiny of the technical component of MFPS, the independent experts raise questions and do not just endorse the scheme.

Independent scrutiny of the technical case of the full scheme is required to ensure that the proposed scheme offers value for money, is fit for purpose and is affordable.

To date none of these requirements have independent assessment or approval.

I therefore request that the proposed scheme is paused and that an independent evaluation of the scheme, its suitability and necessity is conducted.

Yours sincerely

[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

[redacted] and [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:

**The decision by ELC in favor of the scheme was made without a full report by Scottish Water into the conditions of Musselburgh's drains and their ability to cope with flooding. The pumping of surface water into the river Esk may result in contamination of the river Esk by effluent.**

Sewer flooding, when sewage escapes from the pipe through a manhole, drain, or by backing up through toilets, baths and sinks this is known as sewer flooding. Sewer flooding can be caused by: a blockage in a sewer pipe; a failure of equipment; too much water entering the sewers from storm run-off (from roads and fields) and rivers and watercourses which overflowed; or the sewer being too small to deal with the amount of sewage entering it. The cause of the problem may be some distance away from where the flooding is happening. A flood can happen to any property from one or more of these sources and at any time. For most property in the UK the risk is small, however some premises are more at risk than others because of their geographic location and particular local situation. Flooding of your home will almost always involve water entering the building from outside. Houses are usually built to prevent 'normal' water sources getting in by the use of damp-proof membranes, roof over-hangs, guttering, below ground drains and raised finished floor levels in the ground floor. Normal house construction is not designed to keep flood water out when large amounts of water lie against the building for any period of time. There are many routes by which external flood water can enter your house. Some are very obvious such as doorways, windows, air bricks and cracks in walls. Others are not so visible such as washing machine outlets, downstairs toilets, soaking through brick walls, below ground gaps in the walls and floors. The chance of water getting a house will also depend on things like the depth of flood water and the ability of the sewer network to cope with any excess pluvial incident.

Until such time as Scottish Water has undertaken a full investigation & upgraded the existing system the MFPS should not proceed.

## I / We wish to object to the proposed Musselburgh Flood Defense Scheme

[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:**

**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 [redacted] & [redacted]

**Subject:** (0263) Musselburgh Flood Protection Scheme
**Sent:** 22/04/2024, 18:25:17
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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**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 am writing to object to the recently published Musselburgh Flood Protection Scheme.
As a Musselburgh resident I object the vast amount of money that will be used for this proposed scheme.
The amount it would take to dredge the river and clear the drains in Musselburgh some which are impacted by so much earth that weeds are growing out of them is minimal in comparison.

I also object to the erection of all these walls and the cutting down of our trees.

I object to the demolition of the Ivanhoe bridge as it is not a major flood risk to our town.

Please acknowledge receipt of this email. Please advise acknowledgement by email.

Regards
[redacted]

[redacted]
Email address [redacted]
22/04/2024

[redacted]

*22 April 2024*

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

mfpsobjections@eastlothian.gov.uk

To whom it may concern

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

I am an interested party given I am the owner of [redacted] which [redacted] **beach** to the north of my property and to the [redacted] of the harbour. As such I have a [redacted] **access** [redacted] **to the beach** through [redacted] which is impacted by the construction of a seawall by the flood prevention Scheme.

I have a number of concerns over security and privacy issues affecting my property and arising from the Scheme, including objections specifically due to public access to the land between [redacted] wall and the planned seawall and the creation of a 'walkway'.

**1. Objections directly impacting my property**

1. The schedule of Scheme operations report shows a sea defence wall approximately 5m from the existing rear garden walls on Edinburgh Road. I object to this on the grounds that it impacts [redacted] privacy, security and right to peaceful enjoyment [redacted]. Each end of the defence opens to publicly accessible land and therefore creates public access to a 'walkway' with open ends [redacted]. The MFPS design team is well aware, through several verbal dialogues with many Edinburgh Road residents, [redacted], do not support or want, any form of public walkway along the back of [redacted] houses, be that walkway intended or otherwise. This is because the land between [redacted] wall and the seawall is likely to attract significant footfall, particularly given there will be little or no beach in places at high tide as a result of the planned sea defence. This will significantly compromise privacy and security and adversely affect the value of my property, which I expect to be compensated for. Despite verbal assurances provided to me that the Scheme would not create a travel route / walkway between [redacted] and the seawall, to the contrary, the design creates such a walkway. This area

between [redacted] and the new sea defence wall is likely to be a haven for debris, litter, dog fouling and potentially anti-social behaviour.

2. I object to the fact that I have not been provided with any information as to how the area of land [redacted] and the new sea defence wall will be treated from an ownership or maintenance perspective.

3. I object to any disruption or interference to my existing garden wall or any aspect of my property and garden. Further, under no circumstances do I grant permission for any access to, or for work to be done to my property.

4. I object to the lack of detailed information on, and indemnities to protect against, possible consequential damage to my property from the proposed construction.

5. I object to any loss of direct access to the beach from my property and will be seeking compensation should this be the case.

6. I object to the fact that alternative solutions have not been presented to me. Specifically, alternative engineering solutions (for example piling techniques) to build a new sea defence wall close to my property's existing boundary wall, thereby further away from the flood threat and eliminating the issue of a walkway.

7. I object to the fact that less severe climate scenarios have been rejected without adequate discussion with me through the consultation (see later points 2.4, 2.10 and 2.11). My preference for use of a lower level of flood risk has not been sought through consultation. A lower level of risk would significantly reduce the size of the sea defence wall and lessen the impact on my property, increase my security, reduce scheme costs and maintain my connection with the coast.

8. I object to the use of different climate scenarios in the scheme for river and sea flood risk; I feel this makes little or no sense and undermines the notion that the scheme is science led.

**2. Objections to the plan, including timing, MAT integration and coastal report**

1. The people of Musselburgh and its regional Councillors have been tasked with understanding highly technical and long documents running to some 10,000 pages. This is extremely challenging and unreasonable, and I object to the lack of guidance that has been made available, difficulty and short timeframes I have had to inspect these documents.

2. I object to the premature nature of the scheme. The scheme has been expanded to include coastal defences before the coastal report produced by Dynamic Coast and commissioned by ELC was available. Therefore, I object to any further progression of the Scheme until the implications of that report

and planned Coastal change adaptation plan are fully understood to inform the decision making of the scheme.

3. Predicted coastal erosion undermines some aspects of the plan and could threaten the long-term effectiveness of the defences; I object to the fact that this has not been taken into account in the plans. See points 2.10 and 2.11 below on the benefits of an iterative approach.

4. I object to the use of higher climate change scenarios, specifically RCP 8.5 at 95% percentile. Although this may be within SEPA guidelines it does not recognise the likely impact of the global initiative to combat climate change and embeds into the design catastrophic climate change conditions. The benefits of planning for such extreme outcomes are significantly outweighed by the negative impacts of the scale of the defences. The use of such a scenario exaggerates the flood risk (and consequential loss cost) in Musselburgh, which has a low historical flood experience compared to other towns – this links to points 2.11 and 2.12 below on the benefits of an adaptive approach and the misguided rush to secure cycle 1 funding.

5. There appears to be a growing consensus for an alternative engineering view to be put forward, including possible nature-based solutions and this is identified in the Dynamic Coast report. I object to the fact that the types of measures the coastal report suggests have not been incorporated into the Scheme.

6. More generally, I object to the fact that there has not been more done to minimise urbanisation of what is currently an attractive rural environment in the town (river and coast) recognised through various designations for wildlife and amenity.

7. I object to the likelihood that the scheme will negatively impact my quality of life given the enjoyment I currently gain from my locality and nature.

8. I object to the fact that the integration of the Musselburgh Active Toun (MAT) initiative is confusing and inconsistent. This has been incorporated into elements of the design but all or parts have subsequently been removed from the Scheme. At this stage it is hard to understand which elements of the design have been impacted by the MAT initiative and what the design would look like excluding MAT.

9. I object to any distortion of the scheme to incorporate MAT aspects, such as excessively wide footpaths/cycleways and narrowing of the river in some places.

10. I object to the fact that a scaled back version(s) of the Scheme has not been considered with delivery on an iterative basis over time (an adaptive approach). This would build flood protection over time, starting with the most pressing issues, without major disruption to the town, and provide an ability to build public consensus over time.

11. Building defences now that may not be needed for 50+ years and maintaining them over this period of time does not seem like a cost effective or reliable approach to me given the uncertainty of RCP8.5 in the latter parts of this century, therefore I object on these grounds. I object to the fact that the scheme does not utilise the benefit of time (i.e. and adaptive approach); in doing so, the flood plan could be adapted over the next several decades to reflect the reality and scientific evidence as it emerges over that time; rather than being based on a highly debatable assessment today of what reality might look like in 2100. A scheme that evolves over time to reflect increasing understanding of climate and environmental changes, observed flood risk patterns, coastal processes and advances in flood defence techniques seems much more sensible and workable.

12. I object to the notion that funding should only be available once, be unlimited and upfront (cycle 1 funding model) to tackle such a complex and disruptive long-term issue. I feel it is ELC's responsibility to challenge this because it has meant that an adaptive approach has not been taken on the land in which I have an interest and this will negatively impact my security, right to peaceful life and cause a loss of connection to nature for me and my family. To meet the cycle 1 funding deadlines, ELC proceeded without adequate scientific knowledge of the advantages of adaptive management at the coast. ELC should therefore consider the benefits of cycle 2 funding.

**3. Objections related to wider issues**

1. I object to the lack of consideration and application of simple remedial actions around the flood exposed areas, which could have a significantly favourable impact on reducing local flood risk and therefore maintain my connection with nature (e.g. use of demountable barriers and introducing debris traps where appropriate). This, together with a plan to removing obstacles around the river and improving drainage (most drain traps I see in Musselburgh are completely clogged) would be a meaningful step forward in the level of protection for the town, but with minimal disruption.

2. Reduced height seawall defences could be used along the Fisherrow promenade if defences were positioned further back from the positions shown, so that a walkway is maintained between the sea and any wall. I accept that this means that walkways could be damaged by flood events, but only in extreme situations with the sea and the beach accessible for the remainder of the time. I object to the fact that such alternative solutions have not been discussed or consulted on.

3. I object to the lack of information on ongoing maintenance requirements of the Scheme and costs thereof. As a local resident and taxpayer, I should not be denied access to a detailed fully costed plan to address the issue of ongoing maintenance of the new infrastructure created by the Scheme. I object to the likelihood that an overall increase in ongoing maintenance costs to the Council resulting from the Scheme is likely to impact on and lead to cuts to other services, given the current financial pressure ELC is experiencing.

4. I object to the lack of clarity around the likely impact on the local economy and property values from the prolonged disruption as the flood defences are constructed. Experience from other flood schemes provides strong evidence that this is significant.

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

Yours faithfully,

[redacted]

**From:** [redacted]
**Sent:** 22 April 2024 19:35
**To:** Musselburgh Flood Protection Objections
**Cc:** ministeremr@gov.scot
**Subject:** (0265) Letter of Objection to Musselburgh Flood Scheme
**Attachments:** Musselburgh-Flood-Protection-Scheme obejcion 1.c.docx; pixelated 1.jpg; pixelated 2.jpg; vic bridge complete.jpg

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

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[redacted]
22.04.24

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

mfpsobjections@eastlothian.gov.uk
Dear Carlo Grilli,

I would like to raise an Official Objection to the Musselburgh Flood Prevention Scheme. I have studied the scheme documentation which was published in 2024 and I have also read various other documentation associated with the Flood Scheme which have been published as the scheme has progressed over the last few years.
I am a regular visitor to the area having both relatives and friends who live both within Musselburgh and East Lothian in general. I love the river and waterways within the area and regularly walk next to the river and the sea that sits within various sections of the proposed Musselburgh Flood Protection Scheme. I also visit residences and commercial premises including shops that sit within the vicinity of more than one section of the proposed Flood Scheme.
My points of objection to the proposed Musselburgh Flood Protection include the following.
1. My main point of objection centres around the Equality Act 2010 in terms of indirect discrimination relating to the protected characteristics of Age and or Disability. I am concerned that East Lothian Council and or Agents acting on its behalf could while progressing the proposed Flood Scheme within its anticipated parameters breach the Equality Act 2010 and/ or its associated guidance. This in my opinion is highly likely to happen if the Flood Scheme is allowed to progress without the inclusion of a truly independent service such as a Disability Access Panel to assess the Scheme as it progresses through its various stages towards implementation.
Although acknowledging that a lot of specific issues can be addressed and mitigated at the Detailed Design Stage of the Implementation of a Flood Scheme, the Proposal if passed by East Lothian Council, will be given deemed planning permission and in general it will be allowed to be progressed within the parameters set out in the Proposal.
For example, there are around a dozen ramps which are proposed to be built within the Musselburgh Flood Scheme. The flood scheme documentation states that all these ramps are to be built with a maximum gradient steepness of 1 in 12. On the face of it this appears acceptable as this is the maximum steepness allowed within UK Law or Guidance, however the ideal gradient of a ramp is much less severe at 1 in 20 and for a huge civil engineering project to be allowed deemed planning consent to build ramps to 1in 12 at the outset after years of preplanning is a cause for concern as many people with a disability cannot traverse ramps with such a gradient safely. Also, on the Preferred Scheme documentation there are graphics of ramps I would openly be willing to debate with anyone that they do not in their presented graphical form comply with any known building standard guidance that currently exists within the UK or Scotland.
In Hawick, there are people with a disability who either cannot traverse ramps, are too anxious to traverse ramps or have got stuck on ramps that were implemented as part of the Hawick Flood Scheme. I have only studied one ramp in depth at Hawick and in my opinion, it does not adequately follow any guidelines in relation to ramps or bridge ramps. Also, the council were quick to point out that works of major civil engineering projects are exempt from many of the guidelines associated with ramp building but that does

not prevent them from being too steep for people with a disability to safely use nor prevent a Council from potentially breaching Equalities Legislation when building them.

I have enclosed two photos of an audit conducted in 2022 of a ramp that was built as part of Hawick Flood Scheme. One of the photos shows how far up the ramp leading onto the Victoria Bridge in Hawick a person with a disability reached unaided, before they became stuck on the ramp. At the exact moment the photo was taken they required immediate assistance due to fear they were about to fall from their wheelchair. This is a Jacobs designed Ramp that constitutes part of the Hawick Flood Prevention Scheme. I am willing to send the original photos to East Lothian Council's legal team if required but I blurred the faces as part of the submission to my objection because of the potential publication of Objections to the Scheme.

The scheme essentially revolves around the implementation of flood walls. If the flood walls were all 3 metres in height, then they would impact all individuals equally, but they do not and they will vary between around 1m and 1.9 metres. Young school age children and infants and toddlers, along with people with a disability including wheelers, will be restricted in seeing over the flood walls, this will have a direct impact over their relationship with the river and on their ability to be equals with other people when traversing or visiting areas next to the water. This appears discriminatory in nature and potentially constitutes indirect discrimination as defined by Section 19 of The Equality Act 2010 against people with the protected characteristics of age (infants and young children) and disability (including wheelers) and people with the dual characteristics of both the forementioned protected characteristics.

It could be argued by East Lothian Council that protecting the public and businesses of Musselburgh and the surrounding area from serious flooding is justifiable and in general this could be true and this means that flood walls that disadvantage people with a protected characteristic as compared to someone who does not share the same protected characteristic could be viewed as acceptable.

However, the Equality Act 2010 states that discrimination does take place unless A (In this case A would be East Lothian Council and/or Agents acting on its behalf). Within the Equality Act 2010 Section 19) 2) (d): A cannot show it to be a proportionate means of achieving a legitimate aim.

There has been no visible justifiable defence of the Musselburgh Flood Scheme up to this point by East Lothian Council, or Agents acting on its behalf, that acknowledges people with protected characteristics will be placed at a disadvantage as compared to people who do not share the same protected characteristics. On the contrary, the Musselburgh Flood Scheme, in my opinion as it has progressed over the years, has glossed over this potential discrimination with glossy graphics and comments such as the following attributed to [redacted] (Jacobs).

[redacted] reported that the public had objected to the height of defences along the riverside, so the Project Team had revisited this, taking account of the various climate change scenarios, and reduced the heights of the defences in the Outline Design. He noted that "with a height of 1m, people would still be able to see over the walls". (23.01.2024, minutes). This statement attributed to [redacted] is wrong as young children and many wheelers will not be able to see over a 1 metre wall and this statement raises serious concern relating to how this Flood Scheme has been progressed in relation to the Equality 2010 and its associated guidance.

Were alternative means of flood protection for Musselburgh analyzed, compared and contrasted with the actual flood scheme proposal put forward which concluded the justification of flood walls that disproportionately affect people with protected characteristics to proceed compared to other options that avoided the need for such discrimination to take place. Has East Lothian Council or the agents acting on their behalf fulfilled their Equality Duties when allowing the Musselburgh Flood Scheme to progress to this stage.

Therefore, I strongly believe that this Scheme needs to be rejected on the grounds that it could potentially discriminate against people with the protected characteristic of age and or disability, even more so due to the apparent fact that no Justifiable defense for potentially allowing such discrimination to take place has been included within the Flood Scheme documentation. At a minimum, serious mitigations such as suitably positioned viewing panel windows or raised paths, need to be included before this scheme can be progressed. Also, the inclusion of a truly independent Disability Access Panel, like those included in the progression of major road infrastructure projects carried out by Transport Scotland, should be put forward by the local community and asked by East Lothian Council to fully audit the flood scheme proposal including making any recommendations they feel is necessary before this Flood Scheme is permitted to progress.

2. There is no denial of both the extensive nature and severity of this proposed Flood Scheme. An extensive and inclusive campaign has been run which included a petition of thousands and a campaign group totalling around 1600 people who have requested that this scheme be paused. Up to this point, this democratic, open, and inclusive request has been more or less ignored. In my opinion the proposed Scheme should not and cannot be passed without extensive evidence being made available to the public that this request has been truly considered.

3. I am unable to find within the Scheme Documentation any Equalities Impact Assessments. While it might not be a prerequisite of the Flood Risk Management Act Scotland 2009 to include one, I find it hard to believe that its exclusion would sit well within East Lothians Council's Equalities Obligations. I object to the potential failure of its inclusion in the Preferred Scheme documentation, this disadvantages the public from being able to properly scrutinise the proposed scheme especially in terms of its equalities impact. put before them and increases the likelihood that East Lothian Council might fail to adhere to its Equalities Obligations if they later decide to progress with this Flood Scheme. Also, the potential future failure of East Lothian Council to adhere to its Equalities Obligations would significantly increase the likelihood that it might also potentially breach the legal rights of people with protected characteristics as the scheme progresses.

4. There are several serious potential health and safety issues associated with this proposed Scheme. I am concerned from what I have read that there is potentially an increased risk of injury or death to people and pets if this scheme is progressed within the confines that are being set within the proposed documentation. Some areas of the Proposed Scheme appear designed to allow flooding to take place in certain areas. This is not the same as simply allowing some areas not to be protected from flooding. They appear to me to be essentially designed to be flood water catchment areas. It is not clear from the scheme documentation what the flood risk will be for these areas, for example the frequency of event, the volume of water they will hold or how quickly they might flood. In Hawick, for example, next to the Victoria Bridge, people climbed over flood walls into one of these catchment areas once the flood gates were closed, to view the river from the Victoria Bridge, this was reported in the local Hawick Paper. I am guessing they did not realise that this new area, including play park, is designed to capture water as the river rises and a risk of death exists within that area when the river is high.
The flood gates themselves must be manually closed to ensure that nobody is trapped on the wrong side of the gate. In the middle of the night during a large storm, can they truly guarantee that no individuals or pets are not locked within the riverside flood water catchment areas. There has already been evidence within Scotland that Flood Gates have not been closed in time to prevent flooding. To devise a complex multi-million pound flood scheme, where integral parts of the scheme require direct human intervention at critical moments such as closing the flood gates is really risky and even riskier when you realise that the volume of water that could potentially flood into the areas next to the flood gates could be much greater than at present due issues such as the potential narrowing of the river in some places and the actual integrity of the scheme further up river preventing water seepage elsewhere.
There are several cases of people and pets in Hawick becoming trapped at the riverside due to the height of the flood walls and lack of entry and exit points within the flood scheme. On occasion rescue services have had to intervene.
The Proposed Flood Walls will also make it more difficult for the public to see for example, if a child or angler gets into difficulty at the riverside.
Walkways, paths, and roads next to the new flood walls could become more secluded due to the position of flood walls, in Hawick there is clear evidence that areas next to flood walls have already become areas associated with anti-social behaviour and petty crime. The walls make the areas more secluded in general, but the areas also become quieter as many people no longer traverse them because they have lost their relationship with the river due to loss of view and access. This makes these areas now much quieter in terms of footfall and the flood walls also provide cover to those who wish to partake in anti- social behaviour. Only three nights ago on Mansfield Road in Hawick right next to the new flood walls several cars had there wing mirrors damaged, and a few residents also had their garden fenced broken. This type of behaviour was unheard of on the actual Mansfield Road in Hawick pre flood Scheme. There have also been multiple instances of vandalism in the form of graffiti, on interior and exterior flood walls, being investigated by Police Scotland.
I hope you will be kind enough to consider my points of objection.
Yours Faithfully
[redacted]

**Subject:** (0266) MFPS Objection - [redacted] (letter attached)
**Sent:** 22/04/2024, 19:42:06
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections
**Attachments:** MFPS_Objection_Letter([redacted]).docx
2023_ELF10537.pdf

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Dear Mr Grilli,

Please find attached an objection letter in relation to the Musselburgh Flood Protection Scheme, with associated attachment.

I would be grateful if you could acknowledge the receipt of this letter when the MPFS objections mailbox is accessed after the Notice period has expired.

With best wishes,

[redacted]

[redacted]

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

22 April 2024

Dear Mr Grilli,

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

I am writing as a Musselburgh resident with an interest in the affected land, since I regularly use both the land adjacent to the Esk and along the coast from Musselburgh towards Prestonpans as an amenity for leisure and relaxation, which (currently) positively affects my mental health. As a tax payer (and so a contributor to both Scottish Government and East Lothian Council funds), I also have an interest in how public funds are spent. I do not object to flood mitigation measures per se, but to the nature and extent of the proposed Scheme, which is not the right one for Musselburgh and its unique environment, particularly considering its status as a haven for birdlife.

I object for the following reasons:

<u>Coastal defences and Dynamic Coast erosion report</u>

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

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

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

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

<u>Musselburgh Active Toun (MAT) inconsistencies</u>

- The last-minute decision to decouple routes 3 and 5 of the MAT project from the Scheme has caused considerable confusion to members of the public, and rushed changes to the statutory documents issued just prior to this notice period.

- Elements of the Scheme (such as the walls' distance from the edge of the Esk) have been designed around MAT (5m wide, tarmac) travel paths, which in themselves have no positive affect on flood mitigation, and even could be argued to exacerbate flooding. In the current proposals, the river will even be narrowed near the mouth of the Esk in order to accommodate an active travel route, for example.

- If all of the MAT routes are now contingent on planning permission (which they cannot be guaranteed to receive, subject to objection processes), why is the community being presented with a Scheme designed around them? MAT is the reason for significantly widened bridges, getting rid of grass riverbank (which must have an effect in absorbing flood water) for tarmac, and the widening of paths and bridges to a uniform 5m, regardless of location, which will have a significant effect on the ecology, amenity, and even the natural flood resilience of the area.

<u>Bridge replacement</u>

- The proposed Goosegreen bridge at the mouth of the river Esk has no positive effect on flood mitigation, yet is still being included as part of the Scheme. It will have a significant detrimental effect on the estuary, a unique and crucial habitat for birdlife (see objections below). The bridge's proposed extensive ramps will also tarmac / concrete over a large area of grassland. This bridge is extraneous, not wanted by the public, and will blight the biodiversity and amenity value of this unique site.

- Similarly, the replacement of the Ivanhoe bridge offers no flood mitigation, according to Jacobs' reporting (Preferred Scheme Report). It is entirely dictated by the MAT initiative, now separated from the Scheme.

<u>Procedure and governance failures</u>

- Musselburgh ward councillors have not acted as the voices of their constituents on issues around the proposed Scheme. Letters and emails expressing concerns or questions about the Scheme have been delegated directly to the Project Team, with little apparent effort from most Councillors to engage with the complexities around the proposals, or to act as

intermediaries between engineers and lay interested parties. Constituents, in effect, represent themselves on any matters around the Scheme, which is a dereliction of public duty, and leaves people disenfranchised.

- In the above approach (which delegates the responsibilities of elected officials to unelected contractors and ELC officials), there appears to be no mechanism or procedure for (or obligation on) members of the Project Team to convey the nature or number of public queries, feedback, or concerns to elected officials. I made a request about this under the Freedom of Information (Scotland) Act 2002 (2023/ELF10537), with the response that "ELC are not aware of any policy/procedure of this kind" (see attached response).

<u>Biodiversity (general)</u>

- The loss of ancient woodland is unacceptable and the mitigations proposed do not compensate for this. The Environmental Impact Assessment (EIA) states that 0.33 hectares of ancient woodland will have to be felled in construction of the scheme, while also highlighting that NatureScot has described such habitat as an 'important and irreplaceable national resource' (§7.42). Further efforts must be made to avoid this loss during the construction period, in particular, at Pinkie Playing Fields where the ancient woodland is used for forest school and otherwise available to school pupils for their wellbeing and education.

- The proposed Scheme's biodiversity enhancements are not strong enough and further commitments are needed. Enhancements, as required by NPF4, should be far more ambitious and should include some 'traditional' Natural Flood Management actions such as tree-planting, pond creation or leaky dam structures in the catchment (these actions being included under biodiversity enhancement in recognition of the fact that their flood reduction impact is uncertain and therefore cannot be the main justification for their inclusion).

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

- The EIA was completed by Jacobs, with no external scrutiny. The Esk and nearby coast is recognised nationally and internationally as an important national habitat, particularly for birdlife. It has been damaged enough by run-off from previous mining, and now hard-engineering will add to this. The EIA's assumptions that effects of construction (such as run-off of pollutants) can be mitigated (Chapter 7, Biodiversity) thus cannot be taken seriously. Who has corroborated these mitigations (e.g. pp. 78 – 85) to ensure that they are sufficient, especially in consideration of the effect on birdlife?

<u>Birdlife: EIA data inaccuracies</u>

I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA.

- EIA surveys of shoreline and coastal birds (the 'through the tide counts') are insufficiently detailed to adequately assess the impacts of the Scheme on these species. The Scheme is adjacent to, or in places actually within, the Firth of Forth Special Protection Area (SPA), the Firth of Forth Ramsar Site, the Firth of Forth Site of Special Scientific Interest (SSSI), and the

Outer Firth and the St. Andrews Bay Complex SPA. These are internationally and nationally important designated sites for birds, and any assessment of impacts on these designations require must be informed by comprehensive robust and appropriately detailed baseline data. The EIA does not present such data.

- Without species-level data on each survey area, the EIA lacks the necessary detail to enable people to judge whether or not assessment of impacts from the Scheme is correct. We cannot judge whether proposed mitigation measures are adequate, or whether the identification of residual impacts on birds can be relied upon.

- The desk study component of baseline data collection has also been inadequate. To accord with EIA guidance, baseline bird data should comprise both survey results and relevant pre-existing data on bird species present, their national and local population trends, and insights into their relevant behaviour. The Firth of Forth has been the subject of intense ornithological study spanning several decades, and it is reasonable to expect that this body of data would have been drawn upon for the EIA. The desk study data included in the EIA also fails to meet the requests from key stakeholders. For example, the East Lothian Biodiversity Office requested in their Scoping Report (see ELC on 28th November 2023, EIA Appendix C3.2) that 'The field surveys should be informed by a data search from ... useful data (that) may be available from sources including the East Lothian Council Ranger Service, British Trust for Ornithology and Scottish Ornithologists' Club'.

Birdlife: habitat loss

- The EIA fails to identify the main habitat impact from the Scheme, namely the loss of shoreline and inter-tidal habitats over its 100-year operational life. These losses will occur as a direct result of the Scheme's construction of hard defence structures along the coast where these are currently absent or limited, through what is known as 'coastal squeeze'. This impact needs to be fully identified and assessed in the EIA, in particular the Scheme's proposed hybrid wall structures at Work Sections 6 and 7 (impacting 325m and 290m of coastline respectively) and its concrete walls along Work Sections 8 and 9 (impacting 393m and 132m of coastline respectively) (see Table 4-2 'Summary of Scheme by work section' in Section 4.4.1 Scheme Layout Overview, and Figures Appendix A41j to A41l in Appendix A of the EIA Report). The existence of this operational impact is not even mentioned in EIA Chapter 7, with only the most cursory mention given in 7.5.9.3 'General trends'.

- In addition to failing to include operational habitat loss, the habitat loss figures currently included for construction and operational impacts lack clarity and consistency. For example, the extent of temporary lost habitat given in Section 7.6.2.1.1 'Firth of Forth SPA and Ramsar' is given as 'approximately 2.14 ha' but the habitat breakdown figures only add up to 1.711 ha. Similarly in Section 7.6.3.1.1 'Firth of Forth SPA and Ramsar', the permanent loss of habitat from the Firth of Forth SPA and Ramsar is given as 4.3 ha, but again the figures for the habitats lost amount to just over 1.46 ha. This lack of clarity and inconsistencies make it difficult to clearly understand the scale or location of the Scheme's habitat impacts.

- The EIA repeatedly downplays the value of bird habitats (because it is stated they are already subject to disturbance), the significance of disturbance to birds (because it is stated they will move elsewhere within the SPA), and insists that impacts will be insignificant because the area of impact is small. These assertions are consistently unsubstantiated by

evidence, and are a style of assessment more typical of commercial developers seeking to justify damaging protected sites. These assertions are inappropriate in those circumstances, but are totally inappropriate for ELC, given the legal and policy obligations to protect and enhance biodiversity, notably the Nature Conservation (Scotland) Act 2004 and National Planning Framework 4 (NPF4). Furthermore, no reference is made to the fact that many wildfowl and wader populations in the Firth of Forth have already suffered long-term declines as a result of development impacts, disturbance and habitat loss, and that approximately one third of the Firth of Forth SPA/Ramsar's qualifying species are in unfavourable conservation status (Protected Nature Sites (sepa.org.uk), accessed 19.04.2024).

Loss of mature trees along banks of Esk

- The number of mature trees at risk along the banks of the Esk is unacceptable. ELC has declared a climate emergency, yet has taken forward a Scheme which sacrifices a large number of mature trees, which cannot be quantified by the Project Team. Mature trees have considerable advantages in mitigation of climate change over the planting of samplings (even if these are in excess of the trees being lost), many of which simply do not survive. Mature trees are irreplaceable in terms of their ability to capture carbon, their root systems help prevent flooding, tree canopies provide shade, and mature trees are essential habitats for birds, insects, bats, and carbon-capturing species like lichens.

- The Project Team have not provided adequate data about the number of trees along the Esk to be lost. For example, the January 2024 interpretation boards displayed along the river were ambiguous at best about the number of trees to be "saved". Trees that will be removed are marked in red, with those in green are marked with a small-print caption as being retained only "where possible". On first glance, the use of green would imply to any reasonable person that trees marked green would remain. Considering that the issue of tree removal has been identified by Jacobs as being the public's number one priority (and is thus highly sensitive in terms of public acceptance of any Scheme), this use of small print could seem to have been deliberately designed to lull the casual observer into a false sense of security.

Removal of Natural Flood Management (NFM) measures from the Scheme

- ELC voted to decouple NFM measures from the Scheme in January 2024. Along with the unsustainable defences proposed along the coast (see above), the Scheme's majority hard-engineered approach runs contrary to the Scottish Government publication: "Delivering sustainable flood risk management: guidance (2019)", and also is considerably out-of-step with (much publicised) current thought on the value of natural flood management, adaptation and flood resilience. One of ELC's published Scheme objectives (EIA Report Chapter 4, Section 4.1 and Table B4 in Appendix B4) was to "ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures", and this Scheme does not meet that objective. The inclusion of two small reservoirs and a few swales are token at best.

Maintenance of hard defences

- There is no allowance in the current Scheme for maintenance of the proposed hard defences, nor a breakdown of what maintenance may be needed, from immediate graffiti removal to longer term expenditure against erosion and wear-and-tear. With the current

scarcity of public funds and cap on Council Tax, I have no confidence that the Scheme's defences will either enhance the amenity of the town, or be effective in terms of preventing flooding, even in the immediate future, let alone long term.

Negative impact on climate change

- The proposed mitigations in EIA Chapter 12 are all described as 'potential', or actions that 'could' be explored through the proposed Carbon Management Plan. While the EIA gives a range of positive suggestions, without a robust means of enforcing them there is a significant risk that they will be seen as optional. Until suggested secondary mitigations are mandatory, the overall effect on Global Atmosphere – Climate from the Scheme must still be considered Moderate Adverse- Significant.

**Any further exchanges concerning the points raised above should be in writing, either to my postal or email address (i.e. in a recorded format). I do not consent to any contact with members of the Project Team or Council officials in person or by telephone.**

Yours sincerely,

[redacted]

[redacted]

# East Lothian Council

## EIR Ref: 2023/ELF10537

1. ***Any evidence in a recorded form (regardless of media) of policy / procedure about communication to Councillors of written and oral feedback about the Musselburgh Flood Protection Scheme given to the Project Team by the general public. This can also include information in email correspondence, redacted for personal data.***

***Please note that I am not interested in the identities of those providing feedback to the Project Team, or in the nature of that feedback, but in any recorded procedures / policies that enable the communication of that feedback from the Project Team to elected representatives.***

ELC are not aware of any policy/procedure of this kind. In view of this, under Regulation 10(4)(a) of the Environmental Information (Scotland) Regulations 2004, I must formally advise you that ELC has been unable to comply with your request as the information you require is not held.

There is the Councillors Code of Conduct - the standards commission is responsible for enforcing the councillors code of conduct, which is a statutory document that applies to all elected members of local authorities in Scotland.

We have information on this on our website: Councillors code of conduct | Council meetings | East Lothian Council

**Subject:** (0267) MFPS Objections
**Sent:** 22/04/2024, 19:43:58
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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**Categories:** [redacted]

**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 am resending as I have not received any confirmation that my emails have been received.

Regards

[redacted]

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**From:** [redacted]
**Sent:** 21 April 2024 20:56
**To:** 'mfpsobjections@eastlothian.gov.uk' <mfpsobjections@eastlothian.gov.uk>; [redacted]
**Subject:** MFPS Objections

21st April 2024

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

[redacted]

Dear Legal Services

[redacted]

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

## Process and due diligence

1. Did the original tender for the MFPS comply with Flood Risk Management Act (Scotland) 2009? ELC awarded project to CH2M/CH2M Hill in 2018. They were taken over by Jacobs very soon after. Where is evidence of scrutiny of tender process and did this follow procedure/due process?
2. 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 for following

reasons -

· 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 I believe 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 which applies.

3. When approving the Preferred Scheme ELC had a duty to ensure that public funds were disbursed with due consideration to the suitability, effectiveness, prudence, quality and value to their decision. Have the council followed the Local Government in Scotland Act 2003 to secure 'Best Value'?
4. The process of environmental assessment ensures the environmental implications of decisions are taken into account before a decision is made. Where has it been proved this was considered early and openly in East Lothian's Council to approve the Preferred Scheme with appropriate consultation and comparison of different options?
5. Evidence council considered procurement or competition & trade considerations?
6. What evidence is there ELC considered the Climate Change (Scotland) Act 2009?
7. What appropriate governance is being followed regarding using any part of Fisherrow Links? Fisherrow was once a fishing community where the fisherman had rights to dry nets on the Links. Fisherrow Links is listed on the Council's common good asset register as 'inalienable' common good property. What steps have the council taken in light of the status of the Links and the proposed changes which are envisaged in the outline design? Section 104 requires the local authority to consult with the local community when it is planning to dispose of common good property, or change its use. This has not been done in relation to Fisherrow Links.
8. 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.
9. Evidence of appraisal by SEPA has not been presented to residents.
10. Cost to the taxpayer. 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. No breakdown of costs has ever been presented to residents to justify the spiralling costs.
11. Jacobs have presented different climate scenarios. Scenario 2 at river/scenario 4 at coast. The reasoning is unlear for this and undermines the claim the flood scheme is science led.
12. There is professional criticism of the use of RCP 8.5.
13. Lack of transparency over costs - we've never seen how the various projected costs are calculated broken down (including but not limited to social and environmental mitigation costs, design and construction supervision costs, compensation and land purchase costs)
14. No confirmation by Scottish Power to pay for Lagoon seawall despite Norman Hampshire saying that Scottish Power were funding sea wall during ELC online meeting. Who will pay for this?
15. Flood funding is fundamentally flawed. "*Current funding arrangements can change if Ministers schemes are started in line with green book as this is often a requirement to secure funding, schemes then subsequently do not have a requirement to continue to be managed against this….<u>It was noted that 2016/17 was a very early stage to commit to these schemes with a 'blank cheque' as it allowed schemes to grow and grow, that was wrong</u>."* (FOI - extract from scotgov flood risk working group minutes, May 2022).
16. There are perverse incentives to discriminate against Musselburgh's ability to secure NBS/NFM. *"Whilst the guidance more readily supports situations where new developments are being proposed (and where adaptation can be built in from the outset), there is a concern about how the CCA guidance will be interpreted for existing developments. A number of examples were noted ( Musselburgh etc) where local authorities had chosen a high level of protection (1:200yr level of protection and then account for climate change using a single climate scenario, typically based on SEPA's LUP guidance which is based on RCP8.5 95th%) without interrogating whether this is appropriate for the location, or considering the intervention as part of a comprehensive adaptation plan…..The concern is that such an approach may lead to over-engineered solutions that rely on benefits that may never be realised whilst incurring the associated social, economic and environmental costs today. Often many of the adaptation actions were absent, simply relying on higher wall for flood protection. In essence, the proposals didn't / couldn't adapt with increasing risks, but jumped to address future long-term risks with today's interventions. Perhaps these relate to a sub-optimal interpretation of the guidance, or apparent perverse incentives where securing today's funding is preferential to attempting to securing multiple sets of future funding*". (Nature Scot FOI page 33 (31st October 2022)
17. The Council should consider the outcome of the Scottish Government's Review of Flood Resilience Strategy before making final decisions on the Musselburgh Scheme
18. No independent assessment of the climate change parameters at June 23 exhibit
19. No landscape and visual assessment
20. No loss of tourism for duration of scheme has been quantified
21. No updated cost benefit ratio for 2024, the previous estimates are now incorrect

22. During January 2024 ELC meeting, [redacted] (Jacobs) claimed that the MFPS would cease to exist if councillors did not approve the scheme. This was incorrect and deliberately misleading.

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

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

Yours Sincerely,

[redacted]

**Subject:** (0268) FW: MFPS [redacted]
**Sent:** 22/04/2024, 19:44:25
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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**Categories:** [redacted]

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Regards

[redacted]

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**From:** [redacted]
**Sent:** 21 April 2024 21:11
**To:** 'mfpsobjections@eastlothian.gov.uk' <mfpsobjections@eastlothian.gov.uk>; [redacted]
**Subject:** MFPS [redacted]

21st April 2024

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

[redacted]

Dear Legal Services

[redacted]

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

## Democratic Deficit

1. The council has not been objective as the promoter of the scheme. There is no counterbalance to the project team.
2. Lack of clarity and transparency on council meetings. Flood scheme briefings have not been minuted despite requests to councillors from the public.

3. The design was only placed in front of the community in June 2023. We were not then given the opportunity to see any apparently "revised" design before it was presented to council for approval.
4. No independent assessment of the climate change parameters at June exhibit
5. In any decision-making process a single choice is never the most appropriate basis on which to judge complex issues and take decisions that are the best financial, social and environmental value for the public money to be spent.
6. Failure to investigate or fully consider alternative natural flood management/nature based solutions. For example. In October 2023 ELC voted to remove natural flood management from the scheme, even although the scheme was not finalised and still subject to public consultation. Neither had the EIA been published. This vote was premature. The outline design was not to be put to council until early 2024. This vote was concerning in its disregard for due process and an attempt to quash local debate. Was this even legal? It makes a mockery of the Flood Act. (note - ELC Climate Change Strategy, approved by the Council in February 2023. At para 3.26, the report notes – '*Two risks have been identified to tackle the ecological emergency: there is limited funding for the technical work to inform nature restoration projects and limited staff resources to ensure biodiversity priorities are implemented across East Lothian*.' It is clear, therefore, that ELC simply doesn't have the technical or financial resources to carry out river restoration works. This surely makes it all the more imperative that the present scheme sufficiently includes natural flood management and nature based solutions before being signed off by the Council). 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.
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 Coast's 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. Removing scheme components (NFM/NBS) removed any possibility of Community having any open dialogue and collaboration with project team about scheme which is regarded as so important by at least 2500 of those living in the town.
9. Plenty of suggestions have been put to the consultants over the last years but ignored. Even commentaries by knowledgeable residents have never ever been replied to.
10. Why did Jacobs not undertake a thorough and wide-ranging assessment of the measures that could be put in place throughout the Esks' catchment? NatureScot could also have been approached for independent and authoritative advice on this.
11. Lack of transparency - queries to council referred to project team, project team refer to FOI which are chargeable.
12. Lack of transparency as questions taken "offline" during live streamed council meetings were never fully answered.
13. The report of the visit to the Eddleston project was based on Jacobs interpretation of their visit (bias?). Other Musselburgh residents, were also present as this was a joint visit. The consultants clearly do not believe in collaboration with constituents as they neither shared their report with us nor entered into discussion about the relevance of the findings to our town.

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

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

Yours Sincerely,

[redacted]

**Subject:** (0269) FW: MFPS [redacted]
**Sent:** 22/04/2024, 19:45:10
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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**Categories:** [redacted]

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Regards

[redacted]

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**From:** [redacted]
**Sent:** 21 April 2024 22:39
**To:** 'mfpsobjections@eastlothian.gov.uk' <mfpsobjections@eastlothian.gov.uk>; [redacted]
**Subject:** MFPS [redacted]

21st April 2024

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

[redacted]

Dear Legal Services

[redacted]

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

**Environment & Wellbeing**

1. References to “enhancement of landscaping in Musselburgh” or similar are not just 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.
2. There is no maintenance plan or budget to remove graffiti.

3. Musselburgh has a long standing historic relationship with the river and sea. Coastal structure will result in loss of sea views. The scheme will sever the community from the river and the sea.
4. 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.
5. You cannot simply replant replacements which will operate as both a different habitat and ecological resource (the effects of which are unknown) and will also introduce a very different landscape perception/visual impact. Any supposedly replacement trees will take years to mature. Who will maintain planted trees?
6. 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.
7. Privacy issues due to walkways on top of defences are an unresolved issue. Design proposals for walkways on the top of the proposed embankments which will give users sight into homes. These designs need to be substantially modified to overcome these legitimate concerns.
8. I object that there is no guarantee Fisherrow Links will not become a compound during the construction phase.
9. I also object that there is no guarantee the Mountjoy Terrace road will not be used for heavy maintenance traffic during construct phase.
10. Have Nature Scot/Forestry Scotland been consulted specifically regarding trees being planted on Fisherrow Links - this is an invasive species.
11. Does the scheme meet ELC Net Zero goals? Biodiversity is integral to council, which has an aim to reach net zero and improve their biodiversity. The scheme will have a significant impact on ELC's ability to achieving this goal.
12. There is no assessment of the proposals against the Council's Environmental Policies
13. Page 9 - to be in accord with the FRM Strategy, the responsible authority should seek to ensure as part of the study that the action will not have an adverse effect on the integrity of the Firth of Forth Special Protection Area PVA_10_21_Full (sepa.org.uk) Where has this been proven that it will not have an adverse effect?
14. What impact will the construction work and walls have on the towns peoples' enjoyment of historic Musselburgh Festivals ie the rideout? What access will horse and riders have to the beach for their Crusader Chase and for spectators?
15. At a time of increasing pressures on Musselburgh's growing population, the loss of amenity will affect physical and mental health as will pollution and traffic congestion resulting construction works. The impact of the extra, heavy works traffic on local transport (particularly bus services, on lines which are vital not only to locals but also to commuters) has not been assessed.
16. The adverse effects on the economy and the negative impact (direct and indirect) on human wellbeing, estimated to last for 5+? years, have not been costed.
17. "The Scheme will contribute towards the East Lothian Plan 2017-27, focusing on health and wellbeing, safety, transport connectivity, sustainability and protecting our environment." It should be recognised that the Scheme has already had a deleterious impact on health and wellbeing and risks having deleterious impacts on sustainability, safety and environment in future. No amount of river restoration will make-up for all the possible negative impacts.
18. No Equalities Impact Assessment has been carried out.
19. 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.

**Compensation**

20. "*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
21. My enjoyment of land will be affected by scheme and its operations. There will be a negative effect on my health due to pollution, noise and disruptions to traffic.
22. Compensation must be paid to any person who has sustained damage as a consequence of exercising certain powers under the Act (see section 82). Section 83(1) defines damage as the depreciation of the value of a person's interest in land or the disturbance of a person's enjoyment of land. 'Enjoyment of land' therefore needs to be considered. I object to the fact there is no evidence that the EIA (or the Council) have considered this in any detail.
23. 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, Fisherrow coast and the River Esk. I use this regularly for dog walking and exercise. My children use this for sports, football, pitch & putt, and in the past the playpark. I walk daily along the coastline and river 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 and will affect my health and wellbeing and that of our family. I am deeply concerned that the Scheme will additionally diminish the value of my property and I expect to be compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).
24. Compensation can be justified specifically due to any structural damage to my property as a result of the engineering works in close proximity to my property given that the construction of walls will involve the use of heavy machinery including steelpile-driving equipment. Piling works could cause significant vibrations, potentially damaging houses as well as causing disruption. There is no guarantee independent full surveys will be carried out beforehand and I object on that basis.
25. I request a full independent survey and valuation on my home is carried out prior to any work commencing.

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

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

Yours Sincerely,

[redacted]

**Subject:** (0270) MFPS [redacted]
**Sent:** 22/04/2024, 19:45:26
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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**Categories:** [redacted]

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Regards

[redacted]

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**From:** [redacted]
**Sent:** 21 April 2024 23:19
**To:** 'mfpsobjections@eastlothian.gov.uk' <mfpsobjections@eastlothian.gov.uk>; '[redacted]
**Subject:** MFPS [redacted]

21st April 2024

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

[redacted]

Dear Legal Services

[redacted]

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

**Musselburgh Active Travel**

-

1. The apparent very last minute withdrawal of the Musselburgh Active Travel ("MAT") component to the Scheme fundamentally undermines the Scheme design as presented. I do not accept that I am unable to object to MAT due to this so called "withdrawl", I also do not accept it has been withdrawn as it is all over the MFPS designs and EIA.

2. There have been mixed messages from Peter Forsyth and Mr Grilli regarding the inclusion/exclusion of MAT. The council have failed to properly and clearly notify stakeholders re MAT.
3. ELC should have no reason to hide their thinking from those whose interest they purport to work. This includes the recent confusion and obfuscation around active travel routes. Only on the 19th March 2024 was I informed via a councillor MAT are now apparently not part of the scheme. Yet wide paths, ramps and new bridges remain in the flood scheme drawings that DO NOT reduce flood risk.
4. This is evidence the MAT has heavily (and negatively) influenced the design and height of the proposed flood scheme.
5. I have been unable to separate MAT from the notified scheme.
6. It is evident the MFPS 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. Notification of the scheme should be withdrawn due to this fundamental error and the scheme re-notified with MAT fully removed from the designs.
7. Ramps to access bridges will result in lack of privacy to residents eg at Goosegreen
8. Raised active travel paths will result in lack of privacy to residents eg end of Mountjoy Terrace
9. Lack of evidenced consultation on MAT Routes 3 & 5.
10. Are ramps being built on SSSI at Fisherrow Links? There is no clarity on drawings. No images have been provided.
11. The path at Fisherrow Links is perfectly fine and does not require replacing. It is currently used by cyclists, pedestrians and wheeled users.
12. Cycling groups currently use New St to access the Electric Bridge and head east and will not use a new active travel path at Fisherrow Coast. They prefer to go the most direct route.
13. The proposed walkways on the top of the proposed embankments are not justified, and for amenity, public safety, privacy and damage limitation reasons should be removed from the Scheme.
14. The river has been narrowed to create active travel paths. Narrowing of the river is counter to river restoration and can increase flood risk.
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. It 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. There is the potential for the loss of public rights to comment on a development that should require planning permission and subverts the 1997 Act
18. A new Goosegreen Bridge offers no flood reduction benefit and is a waste of taxpayer cash. 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. Any proposal for a new Goosegreen Bridge must also be formally evaluated by NatureScot under the Habitats and Species Regulations for its impact on the SSSI.
20. It is totally unnecessary to construct a new crossing of the river at the coast as is proposed with new Goosegreen Bridge, especially given a crossing exists where the Electric Bridge is at present. Walkers and cyclists can easily travel up from the coastal path alongside Newfield to cross on the existing bridges. This journey literally takes minutes.
21. Mr Grilli has acknowledged that the MFPS will likely incur higher costs because of its inclusion of MAT design features, costs that do not REDUCE flood risk therefore should not be included in a Flood Prevention Scheme as per the Act.
22. 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.
23. There has never been a breakdown of MAT costs. Who will pay for all MAT costs (including "structure" and "routes") and what are these costs?

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

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

Yours Sincerely,

[redacted]

**Subject:** (0271) FW: MFPS [redacted]
**Sent:** 22/04/2024, 19:44:45
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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**Categories:** [redacted]

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Regards

[redacted]

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**From:** [redacted]
**Sent:** 21 April 2024 21:34
**To:** 'mfpsobjections@eastlothian.gov.uk' <mfpsobjections@eastlothian.gov.uk>; [redacted]
**Subject:** MFPS [redacted]

21st April 2024

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

[redacted]

Dear Legal Services

[redacted]

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

**Consult**

-

1. The consultations have been a sham, a tick-box exercise, with no opportunity for the public to have any major influence on the scheme. The Brunton Hall consultations should not be considered engagement because they framed the project in a particular way and did not listen to opposing views.
2. Haven't shown the public true version of what walls will look like - using "small" people etc. People have had to go out and do own measurements. Only a fly through has been presented, not actual 3D image

of whole scheme. It is therefore impossible for public to view scheme in its entirety.

3. No alternatives were given to public meetings post covid despite requests from members of the public concerned re covid (2022). It was discriminatory not allowing residents (with disabilities ie long covid) the opportunity to engage in public meetings
4. The council prevented the public's democratic right to object by not giving reasonable notice or alternative ways to attend.
5. In 2020, Project team - Alan Stubbs said at the Local Area Groups that the level of protection required was something that Musselburgh residents should discuss, and feed back to their councillors, who would then be able to make the appropriate decisions on the progress of the scheme. This was flawed - there is no consultation plan in place that would allow this discussion to happen. The project team instead present the worst-case scenario as the only one we need to prepare for – in breach of the 2019 Guidance to the 2009 Flood Risk Management Act, which makes clear that a range of scenarios should be presented, with honest admission of the uncertainties of each. Scenarios were only presented late 2022 and public never given opportunity to feedback. Indeed Councillors have been unable to assist in many queries.
   On 29/11/22 via email Cllr Forrest stated, *"I have done my best to address your concerns but I am not qualified to answer your very specific and technical questions on this issue".* Cllr Bennet said via email on 22/06/2023 "*Due to the volume of contacts I receive on a daily basis I would strongly suggest these questions go straight to the project team".* Cllr Cassini said this via email (27/11/23) "*However, I do not have the power or the qualifications to make the decisions myself. I cannot answer technical enquires regarding capital funding, costs and subsidy schemes or building standards etc as those roles are delivered by qualified Officers."* I have been faced with continual obfuscation and frustration tactics by the Council (rejection of my FOI request) as well as the Council and my elected Councillors continually undermining their democratic accountability by delegating queries to the (Jacobs-led) project team.
6. There has been public intimidation. Conor Price came to my door to discuss the flood scheme with no prior warning nor agreement. This has also happened to other people in the town.
7. Conor Price also admitted in an email to a resident he monitors their social media. Why are taxpayer funds being used to pay for this?
8. Scaremongering - One 'photograph' in particular was designed specifically to spread fear and panic, showing cars floating down the High Street and St Peter's Church engulfed in water. It was dated 2022 as if it had already happened. Of course, it had not; it was what we now know to call fake news.
9. Outcomes of all consultations have not been made public. ie Musselburgh Business Partnership. A questionnaire was sent out to c150 musselburgh businesses. This was used to "help shape the final scheme and the methods of construction". Where is this evidence? What questions were asked? Why have the public been denied this information?
10. Public consultation question asks "please indicate if you are in support of A flood protection scheme" to Musselburgh residents. From this project team deduced 94.4% were in favour of THE scheme. This is a real disparity & manipulation of the answer. Being in favour of A scheme is quite different to being in favour of THE scheme! Questionnaire answers have been manipulated to suit the project team narrative. https://www.musselburghfloodprotection.com/wp-content/uploads/2022/02/Appendix-D_MFPS_Public-ex-No1_Report_v0.1.pdf
11. Majority of comments people are concerned about walls/views "Very concerned on the impact of walls on the landscape and the 'natural' environment as it is now." Feedback has been ignored. (page 54) https://www.musselburghfloodprotection.com/wp-content/uploads/2022/02/Appendix-D_MFPS_Public-ex-No1_Report_v0.1.pdf
12. Public Exhibition No. 1 - 200 attended. 94% 'supported the flood scheme' (n=85). 85 people in a population of 19,000 (0.93% of the population) 'supported the scheme'. The summary report does not reproduce the question that generated this result - generally feedback questions have been heavily biased (Summary report - https://www.musselburghfloodprotection.com/wp-content/uploads/2022/02/Appendix-D_MFPS_Public-ex-No1_Report_v0.1.pdf )
13. Public were not given opportunity to vote of different types of defences - presented with one coastal wall option at June exhibition 2023 - which was designed BEFORE Dynamic Coast Assessment.
14. 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.
15. The public were not consulted on the Dynamic Coast report before the statutory objection period.

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

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

Yours Sincerely,

[redacted]

**Subject:** (0272) FW: MFPS Objection [redacted]
**Sent:** 22/04/2024, 19:44:56
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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**Categories:** [redacted]

**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 am resending as I have not received any confirmation that my emails have been received.

Regards

[redacted]

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**From:** [redacted]
**Sent:** 21 April 2024 22:29
**To:** 'mfpsobjections@eastlothian.gov.uk' <mfpsobjections@eastlothian.gov.uk>; [redacted]
**Subject:** MFPS Objection 5

21st April 2024

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

[redacted]

Dear Legal Services

**OBJECTION** [redacted]

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

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**Technical Modelling**

1. There is no full river basin approach – this is part of the 2009 Act.
2. Failure to look at hydrological connectivity across the areas Jacobs have considered
3. 1:200 event is not legislative, it's advisory.

4. The Flood Risk Management (Scotland) Act 2009 does not stipulate a year which local authorities must select as a flood risk management design target. The consultants have stated the design target date of 2100 was instructed to them by their client, East Lothian Council, as part of their brief. Our councillors, as the Proposers of the scheme must provide evidence backed information and data that has directed them and persuaded them to select this particular date as part of their brief to the consultants, demonstrating its relevance and appropriateness in the context. There is an inherent problem in selecting year 2100 as our target date. It is simply too far in the future to predict for with the levels of certainty we seek. It must be reviewed. It can also be argued that the unreliability of predictions of such distant future events can itself become a risk arising from the scheme.

5. The modelling data has never been released (nor independently checked or validated) despite repeated requests by members of the community with the necessary expertise to offer a peer review assessment. I reject any assumptions I would not understand the modelling data.

6. Scottish Government are carrying out a review of flood resilience strategy. This should be published before approving MFPS. A sea wall is thus premature.

7. "Flood risk from the 0.5% AEP plus climate change event along the sea front is mostly as a result of wave overtopping" (p43) musselburghfloodprotection.com/wp-content/uploads/2022/02/Appendix-D_MFPS_Public-ex-No1_Report_v0.1.pdf Is therefore the immediate coastal risk from wave overtopping and not sea level rise? This risk has not been addressed in the scheme.

8. Nature scot said, ( FOI, Coastal Change Adaptation Guidance – Group Discussion on Climate Change Teams meeting on 31st Oct 2022) "*A number of examples were noted ( Musselburgh etc) where local authorities had chosen a high level of protection (1:200yr level of protection and then account for climate change using a single climate scenario, typically based on SEPA's LUP guidance which is based on RCP8.5 95th%) without interrogating whether this is appropriate for the location, or considering the intervention as part of a comprehensive adaptation plan….The concern is that such an approach may lead to over-engineered solutions that rely on benefits that may never be realised whilst incurring the associated social, economic and environmental costs today… So the guidance must be clear that, options need to be considered to credible maximum risks, but that plans don't need to address all of these now, ie our planned actions should be incremental and must be actioned at trigger points, rather than implementing solutions today for the next 1m of sea level rise….. There was an acceptance that the coast was different that other settings, and that a precautionary approach to adaptation planning was merited…..Alongside mitigation efforts, adaptation planning is essential at the coast, Coastal change adaptation plans should be precautionary. Given uncertainties a range of scenarios of future risks should be considered (incl. RCP 2.6 50%, RCP4.5? RCP6? RCP8.5 95% & H++). Not all of the climate risks need to be resolved today, but flexible approaches should be planned for to manage these growing risks if and when they occur. This is achieved by defining and deploying incremental and locally relevant trigger points (base on levels/processes not timescales) which also include locally relevant considerations (coincident risks: river flooding, tidal range changes, extreme events etc). Acknowledge that the scenarios used for coastal change adaptation planning, may not be the same as those used for the design of flood risk schemes. Acknowledge the importance of local settings in the implementation of policies.* ***Are we clear enough, that options need to be considered to credible maximum risks, but that plans don't need to address these now, ie our planned actions must be actioned at trigger points, rather than implementing solutions today for the next 1m of sea level rise."***

Why are the Scottish government's experts being ignored?

9. Nature Scot continued FOI, UKCP18 exploratory SL projections Date: 01 November 2022 "*However, we may not need to adapt to 1m of sea level rise. The problem is that if we ask people design schemes to our LUP allowances there may not be feasible solutions for some communities (i.e. , and Musselburgh has limits to community acceptability and environmental constraints with designated sites),* ***and that we potentially overestimate the future benefits whereas the costs are definitely realised****".* It is my understanding the future benefits of MFPS been overestimated.

10. 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.

11. Are flood walls being built on SSSI beside Edinburgh Road? It is not clear on drawings.
12. Sea walls can and do fail. There should be a full assessment of all alternatives before agreeing on a coastal wall which will change Musselburgh forever. https://www.wirralglobe.co.uk/news/24243816.call-investigation-west-kirby-sea-wall-spectacularly-fails/

13. Natural Flood Risk Mgmt Study by Jacobs (2019) was limited and did not include the coast. A design based on walls should not have been presented in June 2023 without a full independent study of options including breakwater, mussel bed regeneration etc. Alternatives have not been tested.

14. There is a requirement in the 2019 Guidance to the 2009 Flood Risk Management Act to ensure flood risk is not exacerbated anywhere else. *Measures to avoid, control, manage and mitigate flood risk* should also not increase flood risk elsewhere. There has been no assessment of the impact or risk of MFPS on other coastal area ie Portobello.

15. Computer modelling is an imprecise science and it appears that the huge estimated for MFPS are based on an absolute worst case scenario for sea level rise and subsequent worst possible prediction of flooding.
16. Why was detailed research on Fisherrow coastline not carried out prior to June 2023?
17. It is extraordinary that the design scheme shows a wall along the back of the coast but no reference whatsoever to the type of Nature based Solutions that can and should be put in place along the back of the beach. These solutions are well known and well tried and tested around Britain. The public were presented a coastal wall scheme based on ZERO individualised evidence at Fisherrow. Why was a wall presented in June 2023, prior to Dynamic Coast report and that was not evidence based?
18. The harbour (where harbourmaster office is) is a weak point.
19. The current harbour wall is low. No wall is proposed here. This means any tidal surge would come over the wall and flood the town. Having a gap in the flood scheme would render the scheme ineffective and put homes at risk.
20. Council clean up of sewage .The issue of coastal erosion at the mouth of the Esk adjacent to the water treatment plant appears to have been profoundly influenced by the Council response to the delivery of sewage onto this area of beach as a result of a recent treatment plant incident. It was noted that a significant stretch of coastline affected by the sediment bulldozing is now characterised by a low cliffline defining the rear of the beach. It would seem from verbal accounts that significant volumes of beach sand were removed by bulldozer from this area – along a ca. 100-150 m stretch of beach. The removal of such large volumes of sand and gravel from this area of beach is likely to have increased rates of beach erosion and shoreline retreat in this area. If there was a significant loss of sediment from the beach the waves during winter in that area would have been able to cause accelerated erosion.
21. We have all seen the significant accumulation at the western end, to all intents and purpose the western part of the beach is stable and building up in some areas.
22. There is no evidence that the entire beach area is eroding.
23. Says in preferred Scheme P43 "06 New sea wall along entire coastline not economically viable, unacceptable impact on SPA, major social impacts and severance of beach front"
    Why do we now have a sea wall and not full assessment of NBS?
24. No evidence why nature based solutions at coast ie beach recharge and breakwaters were dismissed so early in MFPS.
25. It is extraordinary that the design scheme shows a wall along the back of the coast but no reference whatsoever to the type of Nature based Solutions that can and should be put in place along the back of the beach.
26. These solutions are well known and well tried and tested around Britain.
27. When will the scheme for the coast be substantially revised to take on board the recommendations of current Dynamic Coast project ?
28. Why have sand dunes been built into the sea and do not show any evidence why it was not built on the land side of the dune (Dunes Report by Jacobs)?
29. The assumption that an inland estuarine coastline in east lothian has equivalence to an Atlantic welsh coastline presumably for wave energy) is absurd. The Welsh coasts are different. (Dunes Report by Jacobs)
30. There are no near real time scenarios. Why are they even looking at 2100 when the world will have changed (Dunes Report by Jacobs)
31. Where is the substantial evidence that eliminates dunes from Musselburgh?
32. There is bias in Jacobs producing the dunes report – marking their own homework.
33. No assessment is provided of a beach nourishment process similar to that used at Portobello beach using sand extracted from below the low water mark off Fisherrow. Why was this not considered and evaluated as some have suggested on many occasions over the past three years.
34. No independent assessment of natural coastal management schemes, including beach nourishment, marram grass planting, temporary fencing of the micro dunes, provision of drift line natural debris been carried out pre wall design, why?
35. A wall is premature at the coast. Dynamic Coast report states beach could be lost due to seawall structure in 30-40 years - actions to manage flood risk should not contribute to increased coastal erosion. Sea walls lead to erosion. https://www.surfrider.org/news/seawalls-are-stealing-our-sandy-beaches

36. Wall foundations will not last for the predicted build of the walls
37. What is the evidence for a path along coast on top of scheme defence? Conor Price said there is "no requirement for this to go on top. This is simply how the design has evolved and assumed to be the best design solution at this time". Who made these assumptions?
38. Why have public NEVER been consulted on this assumption?
39. Why is this path so much wider than the current path?
40. The current path is perfectly fine. Fisherrow Prom path only replaced in 2022 and new Lagoons path only finished. Consultation by Active Toun said cycle paths were in reasonable condition.
41. Important to have independent modelling of river flow scenarios, including with/without existing bridges and with/without proposed new bridges
42. Why is the Ivanhoe Bridge being replaced? Says in preferred scheme report "P43. 2.14 – 2.16 Modify/replace Ivanhoe (Cotton Mills) Footbridge Negligible benefit (bridge not a major flood risk issue due to high soffit levels…..". This is further detailed in p53 “Options to raise or replace the bridge (Option 2.15 / 2.16) were rejected at an early stage in the appraisal process because the nearby Olive Bank Road bridge provides a greater degree of hydraulic influence through this stretch of the River Esk, therefore the impact of change at this bridge would be negated by the presence of Olive Bank Road bridge. Preferred Scheme Report Document No. It is recommended that raising the Ivanhoe footbridge is not a component of the preferred scheme. It is recommended that investigation into any change to the lateral and / or uplift forces acting on the structure, as a result of other preferred scheme components, is undertaken during Stage 4 Outline Design", Jacobs Preferred Scheme Report
43. What evidence is there for both a new Electric AND a new Goosegreen bridge? Earlier report says this would be replaced by one structure. Initially a single structure was discussed in Jacobs Report. P64. “The shortlisting process determined that removal (Options 4.06 and 4.08) or raising / replacement (4.07 and 4.09) of the structures should be investigated further, depending on whether the bridges had an influence on fluvial flood risk. For the purposes of the remaining sections of this report, the bridges are considered as a single structure, where removal / raising / replacement options would involve both bridges”
44. The electric bridge was previously owned by Scottish Power. This bridge was only built to transport equipment for power station. Cllr Forrest said on via email 27/1/22 “*There is only talk about this nothing else if the original plan had been followed Scottish power should have taken the bridge down when the power station was completed but currently it’s all part of what might could or will happen at the end of the day we need to see what the consultation brings out”.* Why did the council take ownership of this bridge (and subsequent costs to taxpayer) knowing it would have to be removed due to flood risk? Why were public not consulted? Is there therefore justification for building a new bridge?
45. Has an Asset Protection Agreement been carried out to ensure Scottish Power (and other relevant parties) with interest and apparatus are not impacted by the construction of scheme? Where is this evidenced?
46. There was never an original intention of replacing with TWO bridges. Who are the intended beneficiaries of two bridges? MAT?
47. Also effects of debris blockage between Rennie Bridge and Goose Green footbridge Initial review of the height of direct defences upstream of the Electric and Goose Green bridges with the structures in place show that the cope of wall or top of embankment crest would be significantly higher than the general socially acceptable maximum height of 1.4m for both cells 3 and 4. Removal of these structures reduces the potential height of direct defences by up to 900mm, bringing the defence heights closer to the socially acceptable criteria. But they are now HIGHER than acceptable maximum height “therefore removing these structures deduces the potential height” therefore that eliminates this argument
48. What happened to “cognisance of the potential social and environmental impacts”?
49. Nature based solutions were dismissed at outset? why? Preferred Scheme P86 “The greatest barrier to NFM inclusion within a preferred scheme is the difficulty in quantifying the flood risk and economic benefits whilst justifying the expense of implementation. It is therefore concluded that Natural Flood Management measures cannot be included as a component of the preferred scheme. “
50. The construction of walls will involve the removal of large, mature trees and use of heavy machinery including steelpile-driving equipment, close to houses. Piling works could cause significant vibrations, potentially damaging houses as well as causing disruption. There is no guarantee independent full surveys will be carried out beforehand.
51. The Council should consider the outcome of the Scottish Government’s Review of Flood Resilience Strategy before making final decisions on the Musselburgh Scheme

52. "The town of Musselburgh has a very significant flood risk due to its geographic location ..". Oct 23 Report to Council by Jacobs. Using the term 'very significant' implies a quantitative evaluation that is not provided. SEPA refers to a 1:200 return period as a 'medium likelihood', while NatureScot has referred to the risk in Musselburgh as 'significant'. It is suggested that consistent terminology is employed by flood risk management (FRM) professionals and that the definitions are clearly explained in a peer-reviewed document, for example by a professional society. The prefix 'very' needs to be used carefully so that the principle of relative risk is appreciated. For example, if the risk in Musselburgh is 'very significant', how is the risk in more vulnerable locations described?

53. "The scope of the project required Jacobs to consider natural, sustainable and catchment flood risk management options from the outset. An initial report was produced during Project Stage 2 (known as 'the Review of Existing Studies') and a further assessment was completed during Project Stage 3 (known as 'The Options Appraisal Process') supplemented this. These reports fed into the overall Options Appraisal Process in the ultimate determination of the 'Preferred Scheme'". Oct 23 Report to Council by Jacobs. Regarding Jacob's reports on NFM referred to above, the conclusions on the limited role of NFM/NbS are not supported by the very preliminary research undertaken with incomplete mode nting out the limitations was prepared by [redacted], [redacted] and [redacted] and submitted in June 2022. No respon ng

54. It is highlighted that, based on our current understanding, these sustainable engineering measures will contribute more to reducing flood risk in Musselburgh, than if wholescale NFM measures were delivered across the c.330km2 of the River Esk catchment. ." Oct 23 Report to Council by Jacobs. What is the evidence to support this statement? The Jacob's NFM reports stated that Roseberry and Edgeware reservoirs could contribute to storing 2% of the total volume of an 0.5% AEP event (1:200 year return period) for a height of 1m of additional water stored and this would reduce baseline flood depths by 40 – 80mm and reduce flood defence levels by up to 120mm. Or, if 3m additional storage was possible at both reservoirs, the total volume of water stored for a 0.5% AEP (1:200 year return period) would be 6.4% and a reduction in baseline flood depths of 100 – 250mm and a reduction in flood defence levels of up to 330mm. If this assessment from May 2020 is still the correct values, which assumption has been made in the statement above regarding whether 1m or 3m water height is adopted? Have the asset owners agreed to these measures being implemented and to what extent? And how do the 40 – 80mm or 100-250 mm reductions in baseline flood depths relate to the reduction in peak flow?

55. Why was the use of Gladhouse reservoir, the largest body of water in the Lothians, for flood control discounted? The use of all of the reservoirs in the Moorfoot Scheme for flood control of the River Esk could seriously reduce, or even elimiate entirely, the need for flood barriers and other proposed works in Musselburgh. The capital cost of this would be minimal in relation to the works proposed in MFPS.

56. Unless Jacobs has done catchment-wide and extensive modelling of a wide range of NFM options and scenarios in the catchment than reported in 2020, it cannot be stated what is the potential reduction in peak flows for hydrological events of different frequencies. We know from research, including by the Environment Agency in England, that there is very uncertainty regarding the potential for reduction in peak flows from NFM, with a very wide range of estimates from 0% to 25% and a few outliers with larger values, and depending on the frequency and type of hydrological episode involved. In short, there needs to be evidence to substantiate the claim made above.

57. 3.18. "Detailed hydraulic and hydrological modelling of the NFM measures constructed on the Eddleston Water project has indicated a 5% reduction in peak flows at downstream receptors, thereby demonstrating their effectiveness against flood events on a catchment of 69km2". Oct 23 Report to Council by Jacobs. The 5% reduction in peak flows must be referring to a particular frequency of flood event or hydrological extreme. What is that event?

58. Jacobs claim 90 minute difference in North/South Esk peaks, but this can be disproved

59. .3.25 "As detailed in Section 3.2 - 3.10 of this report, the Scheme has worked from its earliest state to deliver natural, sustainable, and catchment-based flood risk management measures to reduce the flood risk to the town of Musselburgh. The Scheme included substantial sustainable flood risk management measures within the 'Preferred Scheme' that was approved by ELC Cabinet in January 2020." Oct 23 Report to Council by Jacobs. What is the evidence of a catchment-wide approach that involved detailed discussions with Midlothian Council from the 'earliest state' of the scheme?

60. 3.29 "managed adaptive approach for Musselburgh". Oct 23 Report to Council by Jacobs. .The meaning of adaptive management is still subject to technical discussions and this paragraph presents only one definition. Another definition is to avoid building hard defences for 2100 but rather to build sequentially, as the scientific uncertainties reduce and while sustainable materials and new flood prevention technologies are further developed. The key in this strategy is to build flexibly and using a modular approach, such that 20 to 30 yearly reviews are undertaken to ascertain whether defences needed to be further strengthened or otherwise modified. For example, managed realignment at the coast could be a credible option in 30 years time so the placing of defences could change

61. Since the reduction in peak flow attributable to NFM measures is not yet reliably quantifiable during design, NFM would be more suited to offsetting future increases in flood risk due to the effects of climate change rather than protecting against a defined present-day flood risk. This is because both the effectiveness of the NFM measures and the future flood risk attributable to the effects of climate change

would be uncertain at the time of construction". (page 14 Eddleston Report). MFPS has assumed a given level of climate change in its Outline Design that comes with a specific % increase in the river flow level with no uncertainty bounds. In doing so, the uncertainties in the effects of climate change on flood risk are eliminated. Why are the uncertainties in one case (effectiveness of NFM) being highlighted as a reason not to include in the scheme and in the other case (climate change) they are eliminated and it is assumed (wrongly) that we can tick the 'include climate change' box?

62. MFPS are not following SEPA guidance. "Whilst the guidance more readily supports situations where new developments are being proposed (and where adaptation can be built in from the outset), there is a concern about how the CCA guidance will be interpreted for existing developments. A number of examples were noted ( Musselburgh etc) where local authorities had chosen a high level of protection (1:200yr level of protection and then account for climate change using a single climate scenario, typically based on SEPA's LUP guidance which is based on RCP8.5 95th%) without interrogating whether this is appropriate for the location, or considering the intervention as part of a comprehensive adaptation plan".
63. Flood Risk Management Act (Scotland) 2009 only allows for funding for flood protection – place-making and river restoration are not funded, creating bias and expectations by public that may not be fulfilled.
64. Major cost of replacing bridges is unnecessary. Is this justified in relation to scale of flood risk. Bridges could be amended with 'sparlings'.
65. "An integrated catchment study will be carried out to support the surface water management plan process and improve knowledge and understanding of surface water flood risk and interactions with other sources of flooding e.g. with the sewer network, watercourses and the sea." www2.sepa.org.uk/frmstrategies/pdf/pva/PVA_10_21_Full.pdf Where is the evidence this has been carried out?
66. "Jacobs was appointed by ELC in December 2017 to develop a flood protection scheme for Musselburgh to reduce flood risk from all sources of flooding." Oct 23 Report to Council by Jacobs. This is surely not correct, since flooding from drains is the responsibility of Scottish Water, not of ELC.
67. 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.
    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. https://www.thecourier.co.uk/fp/news/perth-kinross/4857551/storm-gerrit-perth-scottish-water-pumping-station-fault/
    https://www.scotsman.com/news/people/scottish-council-confirms-some-pump-stations-did-not-work-automatically-during-brechin-floods-3927637
68. There will be a concrete wall built along the River Esk on the east side of the River. This will mean there will be an access "corrider" as next to path there is existing wall at Loretto Newfield. We have seen major flooding from drains here last year. This could lead to loss of life if flood water gets trapped behind the wall. As a female I will feel very unsafe walking along this path hemmed in between two high walls.
69. There is no construction traffic management plan or environment management plan.
70. No images have been given of what the construction will look like which will impact accessibility, traffic.
71. Community concerns over problems with other flood alleviation schemes in other areas have failed to be addressed in MFPS. "Colin Shaw, from conservation group Save Our Lagan, said that the DfI had "questions to answer" following the flooding, saying he believed that the runoff from the new path and wall has contributed to the issue, along with the removal of the trees in the area" https://www.belfastlive.co.uk/news/belfast-news/concern-over-flooding-flood-alleviation-25877353
72. The number of properties likely to be affected keeps changing without any justification. Clarification on number of properties at risk is required. It started off at 2500 in 2019 (see MFPS website exhibition 2019). MFPS website now says 3,200. Sepa on Flood Risk management plan (under Musselburgh) says currently 2800 people. 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 and integrity of any statements by the Council and its consultants.
73. The Scottish Government should pause all schemes until fully understand why Brechin failed to avoid same mistakes.
74. Detailed topgraphic maps are held by Jacobs, but these aren't being shared with the community so we can understand the lowest, most vulnerable points in the town
75. Property level protection is not evident in the flood risk planning for Musselburgh
76. The MFPS is deficient for not investigating or promoting property level protection to community and to councillors.
77. Demountable defences have not been fully explored, costed nor presented as an option

78. Why is there no cost benefit analysis of these compared with proposed scheme?

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

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

Yours Sincerely,

[redacted]

**Subject:** (0273) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
**Sent:** 22/04/2024, 19:49:43
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections
**Attachments:** [redacted] Objection to objections process.docx

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**Categories:** [redacted]

**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.

Please find attached my objection [redacted]
Yours sincerely
[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 Protection scheme as the system for objections is confusing and not fit for purpose.**

## 22.04.2024

To date I have sent 37 objection letters by mail and additionally sent the 37 objections by email to be absolutely sure that each individual objection arrived and was registered.

So far, I have had only one single response by email to the 37 individual emails sent to the objections team email at mfpsobjections@eastlothian.gov.uk . The single response to only 1 of my 37 communication emails stated that emails would not be read until the objections period closed on the 24th April 2024. This level of communication response to a legal objections process is totally inadequate. Every single email communication that I sent should have had an acknowledgement. I am entitled to that as part of due legal process.

I therefore object to the proposed scheme as due legal process for objections has not been followed and I have no way of knowing if my objections have been received or will be registered. I am entitled to acknowledgement that my correspondence has been received even if it will not be read until after the date for objections has been closed.

Yours sincerely

[redacted]

**From:** [redacted]
**Sent:** 22 April 2024 19:57
**To:** Grilli, Carlo
**Cc:** Musselburgh Flood Protection Objections
**Subject:** (0274) Objection to the Musselburgh flood prevention scheme
**Attachments:** Objection to the Musselburgh Flood Scheme.docx

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

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Dear Sir

Please find attached a letter of objection to the proposed Musselburgh flood prevention scheme. I believe the proposal is an environmental disaster and the due process to protect this internationally important site for birds has been seriously neglected.

[redacted]

Carlo Grilli [redacted]

Service Manager – Governance [redacted]

Legal Services [redacted]

East Lothian Council [redacted]

John Muir House [redacted]

Haddington

EH41 3HA

[redacted] [redacted]

22 April 2024

Dear Mr. Grilli,

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

I am an East Lothian resident and a life-long birdwatcher. I am a [redacted].

The Musselburgh lagoons/Levenhall Links area and the area of the Firth of Forth off here is an internationally important area for birds and the most popular birdwatching site in Scotland. I believe that the proposal is based on inaccurate, misleading – indeed, wrong – data, as I describe below. I visit the area myself regularly to birdwatch, and there are always other birdwatchers here, reflecting the wide range of birds in the area, through out the year. Your proposal seriously risks destroying all of this. It does nothing to protect or enhance what is already there. Plus it is very expensive – there are other options, and as a local Council Tax payer I object to this misuse of funds.

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

Inadequacy of the EIA Report's Ornithology Baseline

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

It is therefore essential that baseline bird survey data are properly presented, specifically that the distribution and abundance of qualifying features of the SSSI, SPAs and Ramsar site at least

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

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

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

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

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

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

[3] For example, see C.6.3 and Box C. 6. Practice .1. in the reference cited in Footnote 1.

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

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

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

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

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

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

Baseline Survey Accuracy

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

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

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

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

Failure to Identify and Assess Habitat Loss from the Scheme

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

However, it completely fails to identify the main habitat impact from the Scheme, namely the loss of shoreline and inter-tidal habitats over its 100-year operational life. These losses will occur as a direct result of the Scheme's construction of hard defence structures along the coast where these are currently absent or limited, through what is known as 'coastal squeeze'. This impact needs to be fully identified and assessed in the EIA Report, in particular the Scheme's proposed hybrid wall structures at Work Sections 6 and 7 (impacting 325m and 290m of coastline respectively) and its concrete walls along Work Sections 8 and 9 (impacting 393m and 132m of coastline respectively) (see Table 4-2 'Summary of Scheme by work section' in Section 4.4.1 Scheme Layout Overview, and Figures Appendix A41j to A41l in Appendix A of the EIA Report). The existence of this operational impact is not even mentioned in the EIA Report Biodiversity Chapter, let alone assessed, with only the most cursory mention given in 7.5.9.3 'General trends'. The EIA Report therefore does not meet its own commitment (in Section 3.6.2

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

'Future baseline') to complete '*Where appropriate, an appraisal of the future baseline without the Scheme … where feasible to allow for consideration of the operational impacts of the Scheme over its 100-year design-life'*.

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

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

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

*1. That the Scheme will achieve as a minimum a neutral impact on the environment*.

*2. To ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures*.

*3. To ensure that the Scheme considers the impact of climate change and includes appropriate provisions to mitigate any impact*.

*4. To ensure that the Scheme considers in full, and includes for any appropriate measures, to protect the Firth of Forth and its protected statuses*.

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

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

<u>Failure to Appropriately Identify Plans and Projects to Consider for the Cumulative Impact Assessment</u>

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

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

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

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

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

The rare instance when evidence and published peer reviewed information is referenced in support of the assessment of impacts is for kingfisher (see section 7.6.2.3.4). Kingfisher is only a species of regional importance, yet the EIA Report's assessments of impacts on internationally or nationally important bird species are repeatedly made without any reference to peer reviewed or other evidence, or even to standard NatureScot guidance (for example, in relation to disturbance, Goodship and Furness 20226). A typical example of unsupported assertions is in Section 7.6.3.1.1 'Firth of Forth SPA and Ramsar', which states 'The remaining area to be lost within the SPA is comprised of habitat rarely used by qualifying species and therefore is considered unlikely to provide functional habitat'. There are no data presented to back up this assessment, since the EIA and its Appendices omit the necessary detail on the distribution and abundance of individual species.

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

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

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

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

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

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

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

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

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

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

Disturbance to Birds During the Scheme's Operational Phase

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

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

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

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

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

Impacts on Recreational Amenity Over the Construction Period, Specifically Birdwatching

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

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

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

[9] Presumably these estimates are available from the business case for use of public money on the Musselburgh Active Travel Network.

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

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

Yours faithfully,

**Subject:** (0275) Flood Protection Scheme
**Sent:** 22/04/2024, 20:01:00
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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

**Categories:** [redacted]

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

Dear Sir / Legal Services
I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024. I have an interest in the land affected because I regularly ride my horse on the bridle path that will be decimated by the construction of the debris catcher across the Esk on the west side of the overbridge that carries the A1 dual carriageway and the works to construct access roads to the debris catcher.
These are my reasons for objection to The Scheme:
1/ Disturbance: The construction traffic and all maintenance vehicles will be using a narrow quiet road that I use to ride my horse on for my mental and physical health and wellbeing. This will cause a noise and dust nuisance to me which does not currently exist.
2/ Traffic Generation: The road the debris catcher construction traffic and subsequent debris catcher maintenance traffic propose to use is a narrow private road and used by horse riders, walkers with prams and small children, the movement of livestock, a low volume of cars accessing the livery yard and light farm traffic. It has a speed limit of 10mph. Vehicles must not pass horse riders or horses being led any faster than 10mph. Using this narrow private road for heavy construction and maintenance vehicles will put the other road users at risk and will create a health and safety issue. It will also damage the already fragile road surface.
3/ Unnecessary cost: I really object to tax payer money being wasted to create a new access road to the Esk when there is already a fit for purpose, flatter tarmac access road from Cowpits Road. The proposed site of the debris catcher currently has no access for vehicles of any sort. It is an unsurfaced rural path and totally unsuitable for heavy vehicles. The plans show the access road will need to be constructed over a soft grass livestock field, then through an ancient and well established woodland, down a steep fragile river path that is not robust enough to support heavy construction vehicles and subsequent heavy machinery and vehicles needed to clear the debris catcher. The entire river banking would need to be reinforced before it could be used for this purpose. There is already an asphalt access road to the Esk in Grove which has easy access from Cowpits Road. Therefore a cheaper and less damaging option would be to place the debris catcher to the east of the A1 dual carriageway over bridge, in the vicinity of the railway over bridge and use the existing asphalt access track/road along the Grove to construct the debris catcher and subsequent debris removal. However removing any type of debris catcher from the scheme is the best option because wherever one is constructed, there will be an unacceptable cost and it will cause flooding in the areas upstream where there was previously none. It simply shifts the problem and does not provide a solution.
4/ Environmental Impact: The construction of the access road for the debris catcher will result in the loss of grazing land. The construction and extraction process will disturb and worry the livestock. It will damage and destabilise the fragile high river bank path resulting in landslips.
Hundreds of trees and the natural path will need to be destroyed in order to build a road wide enough for the construction and debris extraction vehicles. The destruction of trees and natural habitat will be damaging to the wildlife in this location. There are deer, foxes, hare, buzzards, bats, squirrels, possibly badgers and other creatures too numerous to list in this woodland. In this world of climate change activists we are supposed to be saving trees not destroying them for a poorly designed flood protection plan that is likely to cause more flooding and environmental damage than if no action was taken at all. It is an absolute disgrace that the designers have concluded that it is acceptable to destroy this area of natural beauty and the wildlife that occupies it when the proposed debris catcher will actually do more harm than good. The proposed mitigation plans are woefully inadequate and poorly thought out,
5/ Flood Risk: Common sense and logic would make a sensible person conclude that the proposal to narrow the river in Musselburgh is more likely to cause flooding in Musselburgh and also damage the environment by causing

areas upstream to flood. This will increase erosion and cause multiple landslips along the already fragile and crumbling Esk Valley.
Additionally my experience of debris traps is that when they are blocked and a dam is formed, there are never any Council resources available to deal with the blockages in a timely manner and the surrounding areas become severely flooded. The debris catcher will ensure more areas along the Esk will be flooded than before. The plans for a debris catcher should be removed completely from the scheme.
6/ Loss of Amenity / Health and Well Being: The construction works would be detrimental to my mental and physical health and wellbeing. The proposed site of the access road and the debris catcher will spoil my enjoyment of the countryside. I ride my horse on this woodland bridle path and ford the river at this point several days a week. Building the access road and debris catcher in this location would rob me of this healthy activity. There are around a hundred or so horse riders that regularly ride horses on the bridle path and ford the river. Robbing them of this natural path and the ability to ford the river to enjoy the bridle path on the opposite side will negatively affect their health and wellbeing too.
The Musselburgh Flood Protection Scheme design has conveniently ignored the requirements for horse riders of which there are hundreds in the local area. The design of the scheme and its active travel plans excludes and discourages horse riders the majority of whom are women and children. The loss of amenity for horse riders must not be ignored and the scheme should be redesigned so horse riders are included and catered for.
7/ Lack of Consultation: There has been no attempt to communicate the proposal for the access road and debris catcher to those who access the Dalkeith Park Estate from the Monkton Gate from Old Craighall. There has been information available at the Whitecraig Gate. Why was the same information not provided at the Monkton Gate where the impact of the Scheme is going to be much more damaging and serious?
Yours Faithfully
[redacted]

Sent from Yahoo Mail for iPhone

**Subject:** (0276) Musselburgh flood protection scheme
**Sent:** 22/04/2024, 20:09:21
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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

**Categories:** [redacted]

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22.04.2024
Dear Sir / Legal Services
I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024. I have an interest in the land affected because I regularly ride my horse on the bridle path that will be decimated by the construction of the debris catcher across the Esk on the west side of the overbridge that carries the A1 dual carriageway and the works to construct access roads to the debris catcher.
These are my reasons for objection to The Scheme:
1/ Disturbance: The construction traffic and all maintenance vehicles will be using a narrow quiet road that I use to ride my horse on for my mental and physical health and wellbeing. This will cause a noise and dust nuisance to me which does not currently exist.
2/ Traffic Generation: The road the debris catcher construction traffic and subsequent debris catcher maintenance traffic propose to use is a narrow private road and used by horse riders, walkers with prams and small children, the movement of livestock, a low volume of cars accessing the livery yard and light farm traffic. It has a speed limit of 10mph. Vehicles must not pass horse riders or horses being led any faster than 10mph. Using this narrow private road for heavy construction and maintenance vehicles will put the other road users at risk and will create a health and safety issue. It will also damage the already fragile road surface.
3/ Unnecessary cost: I really object to tax payer money being wasted to create a new access road to the Esk when there is already a fit for purpose, flatter tarmac access road from Cowpits Road. The proposed site of the debris catcher currently has no access for vehicles of any sort. It is an unsurfaced rural path and totally unsuitable for heavy vehicles. The plans show the access road will need to be constructed over a soft grass livestock field, then through an ancient and well established woodland, down a steep fragile river path that is not robust enough to support heavy construction vehicles and subsequent heavy machinery and vehicles needed to clear the debris catcher. The entire river banking would need to be reinforced before it could be used for this purpose. There is already an asphalt access road to the Esk in Grove which has easy access from Cowpits Road. Therefore a cheaper and less damaging option would be to place the debris catcher to the east of the A1 dual carriageway over bridge, in the vicinity of the railway over bridge and use the existing asphalt access track/road along the Grove to construct the debris catcher and subsequent debris removal. However removing any type of debris catcher from the scheme is the best option because wherever one is constructed, there will be an unacceptable cost and it will cause flooding in the areas upstream where there was previously none. It simply shifts the problem and does not provide a solution.
4/ Environmental Impact: The construction of the access road for the debris catcher will result in the loss of grazing land. The construction and extraction process will disturb and worry the livestock. It will damage and destabilise the fragile high river bank path resulting in landslips.
Hundreds of trees and the natural path will need to be destroyed in order to build a road wide enough for the construction and debris extraction vehicles. The destruction of trees and natural habitat will be damaging to the wildlife in this location. There are deer, foxes, hare, buzzards, bats, squirrels, possibly badgers and other creatures too numerous to list in this woodland. In this world of climate change activists we are supposed to be saving trees not destroying them for a poorly designed flood protection plan that is likely to cause more flooding and environmental damage than if no action was taken at all. It is an absolute disgrace that the designers have concluded that it is acceptable to destroy this area of natural beauty and the wildlife that occupies it when the proposed debris catcher will actually do more harm than good. The proposed mitigation plans are woefully inadequate and poorly thought out,
5/ Flood Risk: Common sense and logic would make a sensible person conclude that the proposal to narrow the river in Musselburgh is more likely to cause flooding in Musselburgh and also damage the environment by causing

areas upstream to flood. This will increase erosion and cause multiple landslips along the already fragile and crumbling Esk Valley.
Additionally my experience of debris traps is that when they are blocked and a dam is formed, there are never any Council resources available to deal with the blockages in a timely manner and the surrounding areas become severely flooded. The debris catcher will ensure more areas along the Esk will be flooded than before. The plans for a debris catcher should be removed completely from the scheme.
6/ Loss of Amenity / Health and Well Being: The construction works would be detrimental to my mental and physical health and wellbeing. The proposed site of the access road and the debris catcher will spoil my enjoyment of the countryside. I ride my horse on this woodland bridle path and ford the river at this point several days a week. Building the access road and debris catcher in this location would rob me of this healthy activity. There are around a hundred or so horse riders that regularly ride horses on the bridle path and ford the river. Robbing them of this natural path and the ability to ford the river to enjoy the bridle path on the opposite side will negatively affect their health and wellbeing too.
The Musselburgh Flood Protection Scheme design has conveniently ignored the requirements for horse riders of which there are hundreds in the local area. The design of the scheme and its active travel plans excludes and discourages horse riders the majority of whom are women and children. The loss of amenity for horse riders must not be ignored and the scheme should be redesigned so horse riders are included and catered for.
7/ Lack of Consultation: There has been no attempt to communicate the proposal for the access road and debris catcher to those who access the Dalkeith Park Estate from the Monkton Gate from Old Craighall. There has been information available at the Whitecraig Gate. Why was the same information not provided at the Monkton Gate where the impact of the Scheme is going to be much more damaging and serious?
Yours Faithfully

**From:** [redacted]
**Sent:** 22 April 2024 20:09
**To:** Musselburgh Flood Protection Objections
**Subject:** (0277 [redacted] Fwd: THE MUSSELBURGH FLOOD PROTECTION SCHEME - FORMAL OBJECTION
**Attachments:** MFPS [redacted] docx

**Categories:** [redacted]

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I am resending the email below as I have not received an acknowledgement that it has been received.

Thanks

[redacted]

---------- Forwarded message ----------
From: [redacted]
Date: 21 Apr 2024 21:46
Subject: THE MUSSELBURGH FLOOD PROTECTION SCHEME - FORMAL OBJECTION
To: mfpsobjections@eastlothian.gov.uk
Cc:

Service Manager – Governance, Legal Services

East Lothian Council

I attach [redacted] objections to the Scheme as notified.

I would appreciate an acknowledgement of this email.

Thanks

[redacted]

[redacted]

[redacted]

[redacted]

Sent from Mail for Windows

**THE MUSSELBURGH FLOOD PROTECTION SCHEME – FORMAL OBJECTION**

As a Musselburgh resident living within 20 metres of the proposed Scheme, owner of one of the properties stated as being at risk from flooding and as a national and local taxpayer I object to the proposed Scheme on the basis of the impact that it will have on me, my property, my mental wellbeing and my enjoyment of my local environment.

Our property sits within the Musselburgh Conservation Area and requires permissions and payments for minor alterations, such as like-for-like window replacements. Yet the entire character of the area immediately adjacent to our property is to be affected by the proposals in the Scheme currently under notification. I recognise and accept that there is a flood risk within Musselburgh, both coastal and fluvial and a combination of the two. What I do not accept is that the solution embodied in this Scheme is a proportionate or effective way of responding to this risk. I have the following specific objections:

1. The Scheme is based upon Climate Change scenarios but there is a different scenario for the coast (Scenario 4 – the Doomsday scenario) than for the river (Scenario 2). There can surely only be one eventual impact of climate change so this is illogical.

2. The adoption of a Doomsday scenario for the coast has the effect of driving higher coastal defences than would be the case were it to be driven by Scenario 2. Not only does the Scheme adopt the most pessimistic of all climate change scenarios (RCP8.5) for the coast but also applies the 95 percentile point. This means that even with the worst possible predicted climate outcome there is only a 5% likelihood of this measure of sea level rise occurring. No evidence has been presented to justify this extreme approach. I object to the excessive scale of coastal defences that are based upon speculative forecasts of future events without any attempt to take a managed adaptive approach (as required by Scottish Government and SEPA policy). Instead the proposed Scheme would construct over-engineered defences that are unlikely to be required to protect the coast for many decades, even if the most pessimistic climate change forecasts materialise.

3. The coast adjacent to our property has never flooded. The proposed defences next to our property involve an embankment that will be 1m above current ground level with a 5m wide pathway and a 0.70m wall on top. The Fisherrow Promenade has experienced road-level flooding during our time in this area (March 2010) but the proposed defences for the Promenade under the Scheme consist solely of a 1m wall. This is difficult to comprehend. It is possible that the difference is attributed to the installation of a hybrid structure at Mountjoy Terrace as the project team have suggested that there was a stated public wish to avoid all defence structures being walls. This is a flawed position as the hybrid structure involves a concrete wall that is only marginally

lower than that at a more vulnerable area nearby. A low wall would be more acceptable than what is being proposed. As the owners of the most immediately affected property, we have never been consulted on our preferences in this respect.

4. East Lothian Council has an opaque and contradictory position on which parts of the proposed active travel network are included within this notification exercise. However, as the Design Statement states that paths on the crest of flood embankments will be consented as part of the Scheme I am objecting to this in the strongest possible terms because of the impact this will have on our property. The embankment which would be within 20m of our property is shown to be 15m wide, 5m of which is to accommodate a presumed active travel pathway. There would be no reason for the embankment to be this scale were it not for the active travel path along its crest. What is particularly galling is that in the space between this embankment and our property there is an existing wide paved pathway that currently accommodates pedestrian and wheeled traffic. That path (which accesses the sewage pumping station at the mouth of the Esk) will remain under the proposed Scheme so there would be two parallel pathways about 10m apart outside our property, leaving only the narrowest strip of level grass where there is currently plenty of open amenity space. That is unreasonable.

5. The Visual Impact Assessment in the EIA states that "*the new 1m high embankment and flood wall of between 0.7m and 0.9m height would be below the line of sight for the panoramic views* (DN: from the first floor of our property) *so would not affect visual amenity. Views from the ground floor would be particularly obstructed, although the long-distance views across the Firth would remain open*". Both statements are incorrect. The construction of a 1.7m high and 15m wide barrier so close to our property of course has an impact on the visual amenity (and that's before the graffiti artists get to work). The views from our ground floor (one of our public rooms and a kitchen that is the heart of the home) are completely lost. The Firth is not visible from the ground floor over a 1.7m barrier and a window in that barrier is hardly a substitute. Whoever conducted the Visual Impact Assessment has misrepresented the impact on our property. I object to this.

6. The creation of a pathway on the crest of the embankment will impact upon the privacy of our property. Our property has large picture windows to take advantage of the open views. An elevated walkway gives passers by direct line of sight into our home and amounts to an unacceptable intrusion. I feel this would compromise my ability to enjoy my own home.

7. No property-based flooding solutions have been proposed or discussed with us or our neighbours. There is surely scope for these smaller-scale defence

measures to play a part and reduce the need for excessively large hard defences.

8. During the construction period, the EIA assumes that our property at the north end of Mountjoy Terrace will experience the same levels of noise, dust and vibration as properties at the south end (perhaps 100m away) and properties on New Street (perhaps 250m away). This is completely inaccurate. As stated above our property is within 20m of the construction footprint and closer to the satellite site compound than other properties.

9. The ramp structures necessary to cross the high embankment to access the beach are visually intrusive and involve yet more areas where links grassland is to be replaced by tarmac. The EIA Visual Impact Assessment states that these new access ramps will improve access to the beach. This cannot be correct as present access is unhindered. I object to the removal of my unfettered access to the beach.

10. The mitigation strategy for the Scheme states that trees and shrubs will be planted between our property and the embankment and that in 15 years this would “help to enhance views”. I cannot see how our current view of the Forth will be enhanced by sticking trees in front of it.

11. Fisherrow Links is immediately adjacent to our property. It is a links landscape. The Scheme proposes to replace the links area adjacent to the new defences with a garden habitat, involving new planting and the construction of pergolas. The pergolas in particular are entirely inappropriate for this setting. Leave the links alone. It is bad enough that the amenity of this area is to be compromised by a satellite site compound and a defence structure that will block views of the sea. Converting it into some sort of urban garden would be the final ignominy.

12. ELC commissioned a report from Dynamic Coast. Although the full report was not available to councillors when they took the decision in January 2024 to progress the Scheme, this has subsequently been made available. The report suggests that the Council should consider a range of coastal resilience measures in Musselburgh, to be developed and appraised as part of a Coastal Change Adaptation Plan. There is no Coastal Change Adaptation Plan and the Scheme has been developed in isolation, running counter to Scottish Government guidance in this area. The coastline next to Mountjoy Terrace has experienced significant erosion recently. This has been due to storms rather than sea level rise. Experience in other coastal locations in Scotland indicates that when seas reach hard coastal defences they exacerbate beach erosion and ultimately will undermine those defences. Without other measures to nourish or protect the Fisherrow Beach there is a strong possibility that any embankment or wall built today will fall victim to the seas long before they would serve any useful defence against possible sea

level rises in 2100. Furthermore, if the current rate of coastal erosion is maintained there may soon be insufficient land between the retreating coast and a major mains sewer to construct the proposed hybrid defence structure and cycling superhighway. Much more work needs to be undertaken on this particular part of the Flood Protection Scheme to ensure that it is the most appropriate approach. The first step should be a thoroughly researched Coastal Change Adaptation Plan. I object to the absence of such a Plan.

13. The Scheme documents indicate that the construction period is expected to last around 4 years. Although activity is to be phased around the various work areas, the whole town is going to be severely impacted by the construction for the entirety of those 4 years (assuming it can be delivered on time). This means that our entire lives whether in our own home, visiting the local shops or trying to enjoy what's left of our local amenity will be dominated by this project. Although I feel reasonably resilient I know from the distress that trying to keep track of the emerging flood plans has generated that this will be a severe test of my mental robustness. I'm not sure that it will be possible to remain in my home while the immediate environs that I have enjoyed for so long are pulverised. Visiting the Hawick scheme while under construction (a broadly similar design by the same consultancy firm) filled me with trepidation. I object to the impact that I feel the construction will have on my health and wellbeing.

14. The location of our property is its primary attribute. During the 4 year construction period (and likely during any preliminary phase too) it will be blighted and would be extremely difficult to sell. That is a major concern if the impact on our wellbeing during construction is too much to bear. I am unconvinced that it is possible to mitigate effectively the impact of constructing such a major engineering project in close proximity to residential properties.

15. As a taxpayer I object to the disregard for public funds that is demonstrated by this Scheme. Very little effort, if any, seems to have been made to keep costs down. The active travel route along the coast (Route 3) is superfluous as there is a perfectly adequate paved surface across Fisherrow Links, across the Electric Bridge and round the Musselburgh Lagoons (the latter being upgraded barely 12 months ago). This proposed route has "necessitated" defences to be substantially larger and more expensive than otherwise and gives rise to the monstrous bridge at the mouth of the Esk that has somehow found its way into the Scheme masquerading as a flood defence measure. On a smaller scale, the plantings and garden furniture on the Links within the Scheme are another example where no consideration is given to reducing costs. Meanwhile valuable community resources like the Brunton Hall are neglected due to funding shortfalls. JFK said that the best time to fix the roof is when the sun is shining. East Lothian Council may have been led to believe that it is investing wisely in a flood scheme for bad times ahead, but in the case of public finances I'm afraid it is already raining.

16. Should this Scheme be approved, I am certain that it will have a major negative impact on me and my family, our mental wellbeing, our property and our enjoyment of the Musselburgh area. I trust that there will be a financial compensation package made available for those of us most directly affected and I will expect to be compensated from that package. I will also expect ELC to pay for a structural survey of my property ahead of any construction works and to commit to make good any damage subsequently caused.

This Scheme should be withdrawn, reconsidered in genuine consultation with the community and resubmitted at a future date. Musselburgh will need flood defences in the future but not this over-engineered, inappropriate and outrageously expensive Scheme.

[redacted]

19 April 2024

**From:** [redacted]
**Sent:** 22 April 2024 20:11
**To:** Musselburgh Flood Protection Objections
**Subject:** (0278 [redacted] Fwd: OBJECTION TO THE MUSSELBURGH FLOOD PROTECTION SCHEME
**Attachments:** MFPS [redacted] docx

**Categories:** [redacted]

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[redacted]
---------- Forwarded message ----------
From: [redacted]
Date: 21 Apr 2024 21:46
Subject: OBJECTION TO THE MUSSELBURGH FLOOD PROTECTION SCHEME
To: mfpsobjections@eastlothian.gov.uk
Cc:

Service Manager – Governance & Legal Services

East Lothian Council

I attach [redacted] objections to the proposed Scheme.

Could you please acknowledge receipt of this email.

Thank you.

[redacted]

[redacted]

[redacted]

[redacted]

Sent from Mail for Windows

## OBJECTION TO THE MUSSELBURGH FLOOD PROTECTION SCHEME

As a Musselburgh resident living in one of the properties identified as being at possible risk of flooding and as a national and local taxpayer, I object to the proposed Scheme. I do so on the basis that the current Scheme is predicated upon flawed modelling, is incoherent around whether active travel routes are part of the Scheme or not, is out of line with emerging Scottish Government policy on flood resilience, has a profoundly damaging overall impact on the environment and shows no regard for the current crisis in public funding. It is shocking that this particular proposal has reached the stage of being formally notified to the public.

Prior to tendering the contract for this project, East Lothian Council set out a number of objectives that any flood protection scheme should meet. These included:

To choose a Scheme that is considered to be best value for money for the Council and the town of Musselburgh within consideration of both the short and long term

That the Scheme will achieve as a minimum a neutral impact on the environment

To ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures

To ensure that the Scheme considers in full, and includes for any appropriate measures to protect, the Firth of Forth and its protected statuses

To ensure that the Scheme does not sever the town from its rivers (through the height / size of flood protection walls and / or embankments) in either the physical or visual sense

It is my view that this proposed Scheme does not meet any of these objectives. The reasons are set out in my specific objections below.

1. Although the detailed modelling underpinning the Scheme has never been published, despite several requests to do so, there is a clear declaration that the designs are intended to protect against the 1:200 year flood event plus an allowance for climate change by 2100. There is no statutory obligation to design to the 1:200 year standard; indeed the Hawick scheme that is nearing completion is designed to a 1:75 year standard and Hawick has experienced much more severe flooding in recent years than Musselburgh. This alone has resulted in higher defences than would be the case if a lower threshold had been embraced (but the residents of Musselburgh have never been asked about their risk appetite despite Mr Stubbs pledging on 9 February 2022 that they would). When the allowance for potential climate change in 76 years time is added, the impact on the design height becomes very significant. There is absolutely no certainty about the extent of global warming or sea level rise in 76 years time. However the designers of this Scheme have opted for the most pessimistic extremity of the range of possible scenarios; an outcome that is based upon there being no change in global emissions patterns and temperatures rising to catastrophically high levels that would threaten the habitability of this planet. Surely the correct approach would be to plan for future events about which we can be reasonably certain and build

in flexibility to increase the standard of protection at a future point if necessary when there is more clarity on climate change impacts. I totally reject that Musselburgh residents and visitors may have to tolerate over-engineered defences that have been designed to deal with events that may or may not occur in many decades time, and which may only occur towards the end of the design life of the structures themselves.

2. While on the subject of climate change, East Lothian Council recently declared a Nature Emergency. The need for flood defences in Musselburgh is in response to the increasing amount of CO2 that is being released into the atmosphere and which is altering our climate. The EIA estimates that the construction of this Scheme will involve the emission of 42,183 tonnes of CO2, without taking into account the loss of many dozens of mature trees that currently act as carbon sinks. A solution based overwhelmingly on hard engineering and the pouring of thousands of tonnes of concrete is actually contributing to the problem that it is supposed to be addressing. If ELC is serious about there being a Nature Emergency it needs to take a more responsible approach to the carbon footprint of any flood defences. It cannot be argued that the prevention of damage caused by a potential future flood is an offsetting measure; this Scheme would generate an actual emission now that will contribute to global climate now. Any offset would need to occur now. I object to the impact of this scheme on our climate.

3. The proposed Scheme is at odds with the Scottish Government's Flood Resilience Strategy which encourages a whole catchment approach. Musselburgh residents have pressed the project team repeatedly for more natural flood management measures to be adopted. It is accepted that some hard engineering measures will be required in the town and along the coast but the scale of these can be reduced if efforts are made to slow the rate at which water enters the river system or by working with nature along the seafront. It is perhaps unsurprising that a company with a business model based upon hard engineering projects (Jacobs) was very quick to conclude in its options appraisal that "*Natural Flood Management measures cannot be included as a component of the preferred scheme*". This cuts across one of the core objectives set by East Lothian Council at the outset. It is laughable that the same options appraisal states: "*Catchment wide measures such as increased forestry cover to increase interception, infiltration and reduce surface water run off rates are feasible but require a great deal of time to become fully effective*". Meanwhile Jacobs have designed a Scheme intended to protect Musselburgh against climate-induced events that might occur in 76 years time. I object to the lack of genuine effort to incorporate natural flood management into the Scheme.

4. On 31 October 2023 East Lothian Council considered a paper in response to their earlier request for a report on NFM measures at Eddleston Water, a pilot

scheme in the Scottish Borders. The paper, prepared by Jacobs of course, went well beyond its original remit, dismissing the potential of NFM in a catchment wide approach and recommending that any further exploration of NFM in the Esk catchment should be examined separately and should be removed from the Musselburgh Scheme. This unfathomable recommendation was approved by the Council without any opportunity to hear and consider alternative perspectives. Needless to say there have been no visible efforts by ELC in the 6 months since that decision to incorporate NFM into the Local Flood Risk Management Plan or to establish an Esk Forum. Once again, ELC is out of step with emerging good practice and the Scottish Government's strategic direction. I object to this blinkered approach and the consequences it has for the scale of flood defences in Musselburgh.

5. Perhaps the truth is that were this Scheme to be considered under the likely criteria for Cycle 2 funding it would be a requirement to take a more holistic approach and to include upstream NFM measures. The dash to meet the Cycle 1 deadline for notification seeks to avoid this inconvenience.

6. The Scheme attempts to present a debris catcher as being a nature-based solution. I struggle to understand how a line of concrete pillars in mid-stream can possibly be "nature-based". Of more concern than nomenclature is that the only debris catcher in the Scheme is at Cowpits i.e. upstream of a riverside area known as the Grove which is lined with willows that frequently find their way into the river. This suggests that the location of the debris catcher is based solely upon an accommodating landowner and shows a poor understanding of the source of river debris affecting the town. Modifications to two minor reservoirs in the Esk catchment are token gestures that would have considerably less impact than bringing Gladhouse and Portmore into the Scheme. Given the cost of the proposed engineering project in Musselburgh it is surprising that so little effort has gone into pressing for these options with Scottish Water.

7. The options appraisal in November 2019 recognised that debris jamming against or under bridges was a cause of backfill and flooding. Many of the changes to bridge design in the Scheme are to raise the soffit levels above the likely height of floodwaters. The options appraisal recognised that the Olive Bank road bridge was much lower than the adjacent "Ivanhoe Bridge" and had a much greater impact on the hydrology of the river at this point. As there was no proposal to alter the road bridge (a peculiar decision?), the option to either modify or replace the Ivanhoe Bridge was rejected in the options appraisal. In the Scheme before us now, however, a replacement Ivanhoe Bridge in a different location upstream is being presented as an integral part of the flood protection scheme and the existing bridge is to be removed. This is self-evidently not the case. The new bridge, located and designed to accommodate one of the active travel routes, should not be in this Scheme but should be subject to separate planning legislation for a new

development. Under the 2009 Act it should not be funded from funds allocated for flood protection. As a taxpayer I object to this extravagance with public funds. The new bridge is insensitively located, will impact on important habitat for birds and bats and, in contravention to the design principles elsewhere, has a central pillar in the flood plain that will have the potential to trap debris. I despair at the ineptitude here!

8. The new bridge proposed for the mouth of the Esk cannot be described as a replacement for what the plans call the “Goose Green footbridge”. There is currently a bridge for cyclists (the Electric Bridge) and a bridge for pedestrians (the Goose Green Bridge) that are 10m apart. These are to be replaced by a combined active travel bridge on the same site that will also have the advantage of a higher clearance over the flood waters. The new bridge 200m downstream is therefore an additional bridge that does not contribute in any way to flood protection. At a meeting of the ELC Petitions Committee on 20 March 2023 the Council Leader, Cllr Hampshire, stated that this bridge would not be built if the active travel proposals were not approved. This is an unambiguous statement that the bridge does not have a role in flood protection. This bridge has the sole function of enabling a potential active travel route and should not be part of this Scheme. It should be subject to planning approvals as a new development, as is required under planning legislation. An additional bridge will bring significantly higher costs, more noise and disruption and will impact heavily upon the wildlife at the river mouth. And apart from anything else the proposed design is massively over-engineered and totally inappropriate for its setting. It has been described as a vanity project, a term with which I would concur.

9. The EIA claims that the location of the new bridge at the river mouth will avoid disturbing birds on the sands and that birds in this area are already habituated to human disturbance. There is no evidence to support this assertion and the EIA does not comment on the importance of the river mouth for the eider creches that gather there or the kingfishers that habituate this area. It is unlikely that sensitive bird species will become habituated to an enormous structure blocking their route up the lower reaches of the river. I object in the strongest possible terms to this bridge.

10. In relation to its comments on bird activity within the area of the Scheme the EIA contains a number of faults that must call into question its accuracy. By way of example the site observers for the EIA recorded 6 flyover Stone Curlews in 2018. This would be a major record for Scotland, indeed for the UK, and is extremely unlikely as there has never been a record in Scotland involving more than one bird. The EIA suggests that Twite could be breeding in the area. Twite breed on moorland habitat or the croft lands of NW Scotland. Although winter visitors, they do not breed on the Lothian coast. Conversely the report states that Ringed Plover do not breed within the study area. This is inaccurate. There are several breeding records, including one in

2023 adjacent to the site that the Scheme proposes to use as a works compound at Morrison's Haven. The EIA has no analysis of bird behaviour associated with the new lagoon area immediately to the east of the river mouth. This was recently landscaped and is attracting a variety of species including some on the Red List. The disturbance associated with the reconstruction of the lagoon seawall will have an impact on these populations. Will the same "suitably qualified ecologist or ornithologist" who identified 6 Stone Curlews be undertaking the proposed surveys to monitor disturbance during construction?

11. The EIA maintains that despite the habitat loss, the displacement of species during construction and the potential death of some species, there will be no significant residual effects. If the kingfishers, dippers, bats and otters lose their habitat how can this possibly be described as insignificant? This is not an objective assessment of the Scheme's impact on the environment and I object to the misleading assertions in this document.

12. Musselburgh is one of the premier birdwatching sites in Scotland and the quality of its ornithology is recognised in the form of a number of nature designations. The Scheme documents acknowledge that the impact on key bird species in the SPA/Ramsar sites during construction will be Major and Negative. However it also states that where direct impacts on protected species or their habitat cannot be avoided, derogation licences will be obtained. This is completely unacceptable and I trust that NatureScot will be of a similar view. I object to this failure to mitigate against this negative impact.

13. The National Planning Framework 4 requires local authorities to ensure that developments deliver overall positive effects for biodiversity. Despite the assertions set out in the EIA for this Scheme, this requirement is clearly not met. River restoration work is included in the Scheme documents but it is not clear whether this is funded and I fear this is little more than window dressing to mask the vandalism that will be caused by canalising the river and removing large numbers of mature trees. The people of Musselburgh have made their views clear on the unnecessary loss of mature trees, many dictated by the spatial needs of a flawed active travel route.

14. The Scheme has adopted what it calls climate change Scenario 2 for the defences along the River Esk. This is based upon RCP6 at 50 percentile. Round the corner on the seafront the Scheme adopts Scenario 4 which is based upon RCP8.5 at 95 percentile, a much more extreme scenario driving consequently higher defences. There is huge uncertainty in scientific circles about the RCP8.5 scenario but no allowance for uncertainty is built into the Scheme's designs. The logic for the different approach between river and coast is not clear but there is a suggestion that the less extreme scenario for the river is based upon opposition to the height of walls along the riverbanks.

But we are told that these defences are all “science-led” so that couldn’t possibly be the case could it? There has been no independent scrutiny and validation of the project team’s decision to design to these particular standards.

15. The full Dynamic Coast report assessing coastal change at Musselburgh was not available to Council when it took its decision to progress this Scheme, a serious omission. Had they been able to read it, councillors would have read that:

> “In the absence of any new coastal management works, as sea levels continue to rise, recent fluctuation and erosion of the Mean High Water Spring line is expected to be replaced by more consistent erosion that may threaten the Musselburgh Flood Protection Scheme’s proposed flood defences and other assets along the town’s coastal frontage.”

and

> **“A future based on constructing the proposed new artificial flood management structures alongside a ‘do nothing’ coastal management strategy** This option includes the construction of new coastal flood management structures, but with no coastal erosion management (i.e. ‘do nothing’) such as beach nourishment. Note that the proposed coastal flood management structures are neither designed nor certified for any coastal erosion protection function. However, they may have limited coastal protection functions (e.g. reducing the impact of waves on the land behind them).
>
> Under this scenario, anticipated beach erosion and lowering is expected to negatively impact the existing and proposed flood management structures, initially within limited sections by 2040 but across the majority of the shore front in later decades. Such a situation presents a risk to the performance of the proposed flood management structures, as they are not designed to withstand marine undermining or storm wave overtopping. The initial human impacts of this lowered risk management performance are most likely to be experienced in the vicinity of Mountjoy Terrace (to the east of the harbour) and opposite Newhailes playing field to the west of the harbour. For this reason, coastal monitoring and coastal erosion resilience measures are expected to be necessary, in the coming years / decades, if the planned flood performance is to be maintained.”

and concludes:

> “the evidence suggests that Council officers have little time to waste in planning short-term coastal resilience measures, including nature-based enhancements.”

The report from Dynamic Coast therefore makes clear that any hard defence structure on the coast will be undermined in the near future unless there is a programme of coastal erosion management in place. That would ordinarily be part of a Coastal Change Adaptation Plan but no such thing exists for the Musselburgh coast. A CCAP would ordinarily involve taking an adaptive approach with community involvement but that seems to be anathema to this particular project team. The immediate threat to the Musselburgh coast is not

from sea-level rise, which is all that this Scheme considers, but from storm damage as we saw in November 2023. Until the coastal processes on this coast are better understood and until there is a plan to put coastal resilience measures in place, then the defences proposed by the Scheme are premature and could rapidly be lost to an eroding coast. I object to this mishandled approach to the coastal defences.

16. I have been directed by Mr Grilli that where elements of the MAT are contained within the Scheme documents these are being consulted upon. I am therefore objecting to MAT routes 3 and 5 due to the impact they would have on the scale and location of the flood defences, as well as adding significant costs, not least through the construction of otherwise unnecessary and undesirable bridges. The ramps that are included within the Scheme design along the river have the sole purpose of accessing these active travel routes and are a blight on the amenity of the riverside and an intrusion upon adjacent properties. The requirement to create an active travel route along the river while trying to minimise the impact on the tress in this area has resulted in plans that involve narrowing the river. In times of spate this must increase the flood risk and the possibility of the defences being overtopped.

17. The active travel route along the lagoon seawall would replace a perfectly adequate existing cycle/footpath that was re-laid just last year. I cannot see how such additional expenditure can be justified. Indeed we should not be trying to attract additional through-traffic to what is a sensitive protected area. A further illustration of unnecessary financial extravagance is the proposal to have a guard rail along the top of the replacement seawall – there is no rail along the current seawall which is of similar height. The drawings clearly show that the drop on the seaward side is minimal and significantly less than on the landward side! A guard rail has absolutely no purpose.

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19. The finances of the MAT scheme have never been clearly explained to the public and there is an expectation that SUSTRANS will make a significant contribution to the capital costs. That may or may not be the case but what is clear is that SUSTRANS do not have a sufficient maintenance budget for their existing path network as they are currently looking for public donations to help fund this service. With all of the proposed new routes in Musselburgh that budget will be stretched even further. Presumably it will be ELC that will have the responsibility of removing the graffiti that will inevitably appear on the walls alongside these active travel routes. The ever-expanding gallery of

graffiti along the current seawall is evidence that ELC may not have the resources to ensure the upkeep of all these new walls.

This Scheme is seriously flawed. It should be withdrawn, reconsidered in genuine consultation with the community, exposed to external expert scrutiny and resubmitted at a future date. Musselburgh will need flood defences in the future but not this over-engineered, inappropriate and outrageously expensive Scheme that is based upon flawed assumptions and a disregard for its full environmental impact. The current Scheme must be rejected.

[redacted]

20 April 2024

**From:** [redacted]
**Sent:** 22 April 2024 20:11
**To:** Musselburgh Flood Protection Objections
**Subject:** (0279 [redacted] Fwd: OBJECTION TO THE MUSSELBURGH FLOOD PROTECTION SCHEME
**Attachments:** MFPS Objection [redacted]

**Categories:** [redacted]

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**I sent the email below to you yesterday but have not received confirmation of receipt. Grateful if you could acknowledge please.**

[redacted]
---------- Forwarded message ----------
From: [redacted]
Date: 21 Apr 2024 21:46
Subject: OBJECTION TO THE MUSSELBURGH FLOOD PROTECTION SCHEME
To: mfpsobjections@eastlothian.gov.uk
Cc:

Service Manager – Governance & Legal Services

East Lothian Council

I attach [redacted] objections to the proposed Scheme.

Could you please acknowledge receipt of this email.

Thank you.

[redacted]

[redacted]

[redacted]

[redacted]

Sent from Mail for Windows

## OBJECTION TO THE MUSSELBURGH FLOOD PROTECTION SCHEME

As a Musselburgh resident living in one of the properties identified as being at possible risk of flooding and as a national and local taxpayer, I object to the proposed Scheme. I do so on the basis that the current Scheme is predicated upon flawed modelling, is incoherent around whether active travel routes are part of the Scheme or not, is out of line with emerging Scottish Government policy on flood resilience, has a profoundly damaging overall impact on the environment and shows no regard for the current crisis in public funding. It is shocking that this particular proposal has reached the stage of being formally notified to the public.

Prior to tendering the contract for this project, East Lothian Council set out a number of objectives that any flood protection scheme should meet. These included:

To choose a Scheme that is considered to be best value for money for the Council and the town of Musselburgh within consideration of both the short and long term

That the Scheme will achieve as a minimum a neutral impact on the environment

To ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures

To ensure that the Scheme considers in full, and includes for any appropriate measures to protect, the Firth of Forth and its protected statuses

To ensure that the Scheme does not sever the town from its rivers (through the height / size of flood protection walls and / or embankments) in either the physical or visual sense

It is my view that this proposed Scheme does not meet any of these objectives. The reasons are set out in my specific objections below.

1. Although the detailed modelling underpinning the Scheme has never been published, despite several requests to do so, there is a clear declaration that the designs are intended to protect against the 1:200 year flood event plus an allowance for climate change by 2100. There is no statutory obligation to design to the 1:200 year standard; indeed the Hawick scheme that is nearing completion is designed to a 1:75 year standard and Hawick has experienced much more severe flooding in recent years than Musselburgh. This alone has resulted in higher defences than would be the case if a lower threshold had been embraced (but the residents of Musselburgh have never been asked about their risk appetite despite Mr Stubbs pledging on 9 February 2022 that they would). When the allowance for potential climate change in 76 years time is added, the impact on the design height becomes very significant. There is absolutely no certainty about the extent of global warming or sea level rise in 76 years time. However the designers of this Scheme have opted for the most pessimistic extremity of the range of possible scenarios; an outcome that is based upon there being no change in global emissions patterns and temperatures rising to catastrophically high levels that would threaten the habitability of this planet. Surely the correct approach would be to plan for future events about which we can be reasonably certain and build

in flexibility to increase the standard of protection at a future point if necessary when there is more clarity on climate change impacts. I totally reject that Musselburgh residents and visitors may have to tolerate over-engineered defences that have been designed to deal with events that may or may not occur in many decades time, and which may only occur towards the end of the design life of the structures themselves.

2. While on the subject of climate change, East Lothian Council recently declared a Nature Emergency. The need for flood defences in Musselburgh is in response to the increasing amount of CO2 that is being released into the atmosphere and which is altering our climate. The EIA estimates that the construction of this Scheme will involve the emission of 42,183 tonnes of CO2, without taking into account the loss of many dozens of mature trees that currently act as carbon sinks. A solution based overwhelmingly on hard engineering and the pouring of thousands of tonnes of concrete is actually contributing to the problem that it is supposed to be addressing. If ELC is serious about there being a Nature Emergency it needs to take a more responsible approach to the carbon footprint of any flood defences. It cannot be argued that the prevention of damage caused by a potential future flood is an offsetting measure; this Scheme would generate an actual emission now that will contribute to global climate now. Any offset would need to occur now. I object to the impact of this scheme on our climate.

3. The proposed Scheme is at odds with the Scottish Government's Flood Resilience Strategy which encourages a whole catchment approach. Musselburgh residents have pressed the project team repeatedly for more natural flood management measures to be adopted. It is accepted that some hard engineering measures will be required in the town and along the coast but the scale of these can be reduced if efforts are made to slow the rate at which water enters the river system or by working with nature along the seafront. It is perhaps unsurprising that a company with a business model based upon hard engineering projects (Jacobs) was very quick to conclude in its options appraisal that "*Natural Flood Management measures cannot be included as a component of the preferred scheme*". This cuts across one of the core objectives set by East Lothian Council at the outset. It is laughable that the same options appraisal states: "*Catchment wide measures such as increased forestry cover to increase interception, infiltration and reduce surface water run off rates are feasible but require a great deal of time to become fully effective*". Meanwhile Jacobs have designed a Scheme intended to protect Musselburgh against climate-induced events that might occur in 76 years time. I object to the lack of genuine effort to incorporate natural flood management into the Scheme.

4. On 31 October 2023 East Lothian Council considered a paper in response to their earlier request for a report on NFM measures at Eddleston Water, a pilot

scheme in the Scottish Borders. The paper, prepared by Jacobs of course, went well beyond its original remit, dismissing the potential of NFM in a catchment wide approach and recommending that any further exploration of NFM in the Esk catchment should be examined separately and should be removed from the Musselburgh Scheme. This unfathomable recommendation was approved by the Council without any opportunity to hear and consider alternative perspectives. Needless to say there have been no visible efforts by ELC in the 6 months since that decision to incorporate NFM into the Local Flood Risk Management Plan or to establish an Esk Forum. Once again, ELC is out of step with emerging good practice and the Scottish Government's strategic direction. I object to this blinkered approach and the consequences it has for the scale of flood defences in Musselburgh.

5. Perhaps the truth is that were this Scheme to be considered under the likely criteria for Cycle 2 funding it would be a requirement to take a more holistic approach and to include upstream NFM measures. The dash to meet the Cycle 1 deadline for notification seeks to avoid this inconvenience.

6. The Scheme attempts to present a debris catcher as being a nature-based solution. I struggle to understand how a line of concrete pillars in mid-stream can possibly be "nature-based". Of more concern than nomenclature is that the only debris catcher in the Scheme is at Cowpits i.e. upstream of a riverside area known as the Grove which is lined with willows that frequently find their way into the river. This suggests that the location of the debris catcher is based solely upon an accommodating landowner and shows a poor understanding of the source of river debris affecting the town. Modifications to two minor reservoirs in the Esk catchment are token gestures that would have considerably less impact than bringing Gladhouse and Portmore into the Scheme. Given the cost of the proposed engineering project in Musselburgh it is surprising that so little effort has gone into pressing for these options with Scottish Water.

7. The options appraisal in November 2019 recognised that debris jamming against or under bridges was a cause of backfill and flooding. Many of the changes to bridge design in the Scheme are to raise the soffit levels above the likely height of floodwaters. The options appraisal recognised that the Olive Bank road bridge was much lower than the adjacent "Ivanhoe Bridge" and had a much greater impact on the hydrology of the river at this point. As there was no proposal to alter the road bridge (a peculiar decision?), the option to either modify or replace the Ivanhoe Bridge was rejected in the options appraisal. In the Scheme before us now, however, a replacement Ivanhoe Bridge in a different location upstream is being presented as an integral part of the flood protection scheme and the existing bridge is to be removed. This is self-evidently not the case. The new bridge, located and designed to accommodate one of the active travel routes, should not be in this Scheme but should be subject to separate planning legislation for a new

development. Under the 2009 Act it should not be funded from funds allocated for flood protection. As a taxpayer I object to this extravagance with public funds. The new bridge is insensitively located, will impact on important habitat for birds and bats and, in contravention to the design principles elsewhere, has a central pillar in the flood plain that will have the potential to trap debris. I despair at the ineptitude here!

8. The new bridge proposed for the mouth of the Esk cannot be described as a replacement for what the plans call the “Goose Green footbridge”. There is currently a bridge for cyclists (the Electric Bridge) and a bridge for pedestrians (the Goose Green Bridge) that are 10m apart. These are to be replaced by a combined active travel bridge on the same site that will also have the advantage of a higher clearance over the flood waters. The new bridge 200m downstream is therefore an additional bridge that does not contribute in any way to flood protection. At a meeting of the ELC Petitions Committee on 20 March 2023 the Council Leader, Cllr Hampshire, stated that this bridge would not be built if the active travel proposals were not approved. This is an unambiguous statement that the bridge does not have a role in flood protection. This bridge has the sole function of enabling a potential active travel route and should not be part of this Scheme. It should be subject to planning approvals as a new development, as is required under planning legislation. An additional bridge will bring significantly higher costs, more noise and disruption and will impact heavily upon the wildlife at the river mouth. And apart from anything else the proposed design is massively over-engineered and totally inappropriate for its setting. It has been described as a vanity project, a term with which I would concur.

9. The EIA claims that the location of the new bridge at the river mouth will avoid disturbing birds on the sands and that birds in this area are already habituated to human disturbance. There is no evidence to support this assertion and the EIA does not comment on the importance of the river mouth for the eider creches that gather there or the kingfishers that habituate this area. It is unlikely that sensitive bird species will become habituated to an enormous structure blocking their route up the lower reaches of the river. I object in the strongest possible terms to this bridge.

10. In relation to its comments on bird activity within the area of the Scheme the EIA contains a number of faults that must call into question its accuracy. By way of example the site observers for the EIA recorded 6 flyover Stone Curlews in 2018. This would be a major record for Scotland, indeed for the UK, and is extremely unlikely as there has never been a record in Scotland involving more than one bird. The EIA suggests that Twite could be breeding in the area. Twite breed on moorland habitat or the croft lands of NW Scotland. Although winter visitors, they do not breed on the Lothian coast. Conversely the report states that Ringed Plover do not breed within the study area. This is inaccurate. There are several breeding records, including one in

2023 adjacent to the site that the Scheme proposes to use as a works compound at Morrison's Haven. The EIA has no analysis of bird behaviour associated with the new lagoon area immediately to the east of the river mouth. This was recently landscaped and is attracting a variety of species including some on the Red List. The disturbance associated with the reconstruction of the lagoon seawall will have an impact on these populations. Will the same "suitably qualified ecologist or ornithologist" who identified 6 Stone Curlews be undertaking the proposed surveys to monitor disturbance during construction?

11. The EIA maintains that despite the habitat loss, the displacement of species during construction and the potential death of some species, there will be no significant residual effects. If the kingfishers, dippers, bats and otters lose their habitat how can this possibly be described as insignificant? This is not an objective assessment of the Scheme's impact on the environment and I object to the misleading assertions in this document.

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from sea-level rise, which is all that this Scheme considers, but from storm damage as we saw in November 2023. Until the coastal processes on this coast are better understood and until there is a plan to put coastal resilience measures in place, then the defences proposed by the Scheme are premature and could rapidly be lost to an eroding coast. I object to this mishandled approach to the coastal defences.

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[redacted]

20 April 2024

**Subject:** (0280) Musselburgh flood protection objection letter
**Sent:** 22/04/2024, 20:13:25
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections
**Attachments:** flood objection .docx

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

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[redacted]

*22nd May 2024*

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

mfpsobjections@eastlothian.gov.uk

Dear Carlo Grilli

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

As you can see by my address I am a [redacted] resident. We have lived at our current address since early [redacted]. My [redacted] and when we decided to leave we were very open to where we would eventually live and bring up our family.

The main factor in choosing where to live was first around Job prospects and then what we thought of each town we visited. We arrived in Musselburgh on a beautiful sunny day, walked down by the river and down to the beach. What is not to love about this beautiful place.

Easiest and best decision we ever made.

Incidentally we moved from [redacted], where we were flooded in 1999 and we weren't anywhere near a river, the water came up through all the drains.

In the [redacted] we have lived here we have never experienced the water to be anywhere near our property or our neighbours who are much closer to the water.

I appreciate that sea level predictions for the Forth 2100 range from 8cm above sea level to 86cm. Therefore I am not entirely against flood protection, but I am very concerned with the current proposals and the addition of adding in the Musselburgh Active Travel (MAT) alongside the flood protection works.

I have tried to read the reports but I am an [redacted] and not an engineer. So please forgive me if my writing sounds a little chaotic and without the added references to back up my concerns. I have found the information very overwhelming.

I object to the published scheme because:

OBJECTION 1

I am horrified at the thought of this concrete monstrosity of a bridge literally [redacted] from my property. The 9 meter wide bridge is bad enough, but the ramps either side !!! The ramps to access the bridge are huge and long. I have just come back from the most beautiful walk with my dog and watched the sunset. We have always felt extremely lucky to live here and be so close to the water. We live in a very chaotic world and the openness of space and tranquillity is priceless. My husband and I are both very keen road cyclists and neither of us feel the need for an added bridge at Goosegreen.

A total waste of money and huge unnecessary impact on the natural environment during construction.

The bridge is essentially not required and I believe planning permission has not yet been granted.

[redacted]

If the work goes ahead with construction of the Goosegreen bridge, I expect a survey to be carried out on my property before and after any work and compensated for any damage, at NO cost to us.

I don't think there is a property in [redacted]

I strongly feel that any further piling, and construction work in the [redacted] by causing damage and devaluation. A new bridge has nothing to do with flood protection and a total waste of tax payers money, therefore strongly object to the proposed building of the Goosegreen bridge.

OBJECTION 2

I strongly feel that the money being proposed is wholly unnecessary.

**Musselburgh Flood Protection Scheme**, being advanced under the Scottish Government's Cycle 1 Programme for Flood Protection Schemes. The updated estimate for the scheme is £53.9 million.

**Major repair works required to the existing Scottish Power Ash Lagoons Seawall**. The updated estimate for this work is £52.1 million.

Significant parts of two of the routes of **Musselburgh Active Toun**, which will deliver new active travel infrastructure in partnership with Sustrans. The updated estimate for the parts of the project which can be delivered by the Scheme is £26.5 million.

A suite of river restoration interventions, through a new multiple-benefits project authorised by East Lothian Council in August 2022, known as **Musselburgh River Esk Restoration**.

From eastlothian.gov.uk

estimated total = 132.5 million

The Government propose to cover 80% of these costs, where will the other 20% come from?

Us, the community?

No doubt the council will reap back the money somehow, through parking fees etc for something we don't want

Is this value for money?

At what cost to the environment?

Is there a more natural cost effective option?

Ultimately, I am not totally opposed to flood protection. I have seen how high the water can get and am very aware of how the tides work and vary in height. I see the proposed walls at goosegreen crescent are to be minimum height of 1 meter, max height 1.2 meter. I don't relish the idea but can see the practicality. But would much prefer an alternative environmentally friendly option. I am upset by the loss of our natural environment especially any trees which may be destroyed in the process and the carnage (this is how I personally see it) which we will have to live alongside for the next 4 years makes me quite emotional and upset.

This is my home and my sanctuary.

And the bridge is a definite NO

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

Yours Faithfully

[redacted]

**Subject:** (0281) Objection to MFPS
**Sent:** 22/04/2024, 20:15:44
**From:** [redacted]
**To:** [redacted]; Grilli, Carlo; Musselburgh Flood Protection Objections; Musselburgh Flood Protection Scheme
**Attachments:** Objection to Musselburgh FPS [redacted].pdf

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

**Categories:** [redacted]

Some people who received this message don't often get email from [redacted]. Learn why this is important

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

Dear Service Manager,

Kindly find attached our objection letter to the Musselburgh Flood Defence Scheme, sent for and on behalf of the owners and occupiers of [redacted].

Kindly confirm receipt of this email.

We look forward to receiving your response.

Kind regards

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

**Names:** [redacted] and [redacted]
**Address:** [redacted]
**Contact** [redacted]

**Legal standing to Object**

We are freehold owners of a Category B listed property in a Conservation Area located next to the River Esk and have received the statutory notification (the "**Notice**") of the proposed flood defence scheme under the Flood Risk Management (Scotland) Act 2009 (the "**Act**") (the "**Scheme**") as more fully described in an environmental impact assessment report produced by Jacobs and issued by East Lothian Council (the "**Council**") in March 2024 (the "**EIA**").

We have legal standing to object to the Scheme on the basis that we satisfy the definition of a "relevant objector" within paragraph 5(6) of Schedule 2 of the Act. Given paragraphs 1(1)(d) to (f) of Schedule 2 to the Act require a local authority to send direct notification of a proposed scheme to those with an interest in land affected or any other land affected, and we have received such notice and our property is "at risk", confirms our status as a "relevant objector" for the purposes of the Act.

Where any of the objections raised in this letter are, in the opinion of the Council, considered invalid this shall not operate to invalidate any other legitimate objection raised in this letter.

This letter of objection shall be construed as both an objection to the Scheme, and representations regarding the EIA in each case as determined by the context.

**Representations and Objections**

1. **Objection 1: Technical premise of the proposed Scheme design fundamentally flawed:**

    i. The Scheme is predicated on a design that is for a 1:200 year event – the heavy engineering design 'consequences' that flow from this decision are significant and adverse. Unlike other towns in Scotland that have flood protection schemes in place (or are actively under consideration), Musselburgh does not have a similar history of regular flooding (the only 0.5% AEP flood event that the town has seen taking place in 1948) for a variety of geological and other reasons- making this assessment of risk (which is not a legislative requirement) unjustified and overly conservative.

    ii. The Scheme is predicated on a "credible worst-case scenario" in relation to climate change, otherwise now known as "Model C" by Jacobs (i.e., present-day flood risk plus three different climate change scenarios, namely: a medium emissions scenario in the 2050s, a high emissions scenario in the 2070s, and a high emissions scenario by 2100). Given the significant uncertainty associated with climate change models (and global warming generally), we object to the premise of these projections on the basis that the proposed Scheme solution not only is based on the most pessimistic interpretations of 'science' available, but the design itself relies heavily on walls and hard engineering that will simply not stand the significant test of time that the assets will be required to exist for until they are fully 'tested' in these extreme scenarios (as can be seen from the existing sea walls that extend along the ash lagoons, that are in

a state of significant disrepair). The cost of constant upkeep and renewal of the Scheme assets has also not been costed for. A more sustainable, responsive and considered approach is required. This objection is supported by a report commissioned by the Council by Dynamic Coast which was clear that further action will certainly be required in order to protect the new defences from erosion – the proposed Scheme gives absolutely no indication of what this might be, including costs, feasibility, or environmental impact over the long term. Rather than proceed with the Scheme as planned, which did not take this into account, the Council (in dialogue with the community) should consider ways to address both flood risk and coastal erosion together.

iii. Specifics of the modelling data have never been released (nor independently checked or validated) despite repeated requests by members of the community with the necessary expertise to offer a peer review assessment. Public statements by Jacobs such as projections "indicate a rise of around 1.2m in 100 years"[1] are intended to create alarm and distress (and therefore support) within Musselburgh for the Scheme, yet are based on climate change scenarios which far exceed even the worst case scenarios of 5.0°C of warming by 2100, therefore falling within the "high warming, low confidence" range proposed by the latest IPCC 6th Assessment Report (AR6) on climate change and as modelled by NASA in its "Sea Level Projection Tool". This is an unacceptable manipulation of scientific data (which the Council have at no point ever sought to challenge), which can only be intended only to mislead the public for the benefit of Jacobs justifying what is proposed to be a highly expensive (and therefore profitable) project at the cost of the taxpayer. We therefore object to the fact the Scheme is predicated on highly speculative and generally unsupported interpretations of scientific data and that the Scheme does not comply with the Council's legislative obligations in respect of the management of public money.

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

    i. the project fails to meet one of its initial stated environmental objectives: that "the scheme will consider the impacts of climate change" (EIA §4.1);

    ii. it directly contradicts the statement in the EIA (§12.1) that the Scheme assets "have an inherently low vulnerability to climatic factors and the likely variation in these due to climate change. Consequently, this aspect of the climate change assessment is not considered further in this chapter and the focus is on assessing GHG emissions and their potential impact on climate". Thus, this chapter, as applied to these sections of the proposal, is inadequate and cannot be considered to fulfil the legislative requirements; and

    iii. the estimates of benefit to cost ratio are now incorrect. Undermining of the proposed coastal defences here will incur much greater maintenance costs

[1] Historical Flooding - Musselburgh Flood Protection

(and currently unaccounted for emissions) and likely reduce the standard of protection.

2. **Objection 2: Lack of genuine alternatives (including nature-based solutions ("NbS") to the proposed Scheme offered**

   i. The unanimous exclusion of natural flood management ("**NFM**") in October 2023, highlights a lack of willingness to deploy nature-based solutions, and we object on the grounds that this is irrational. We further object to the current proposals from the mouth of the Esk to the Brunstane Burn (work sections 6-16) on the grounds that the expert report commissioned by the Council and produced by Dynamic Coast was not available to Councillors when they voted on the Scheme. The report makes clear that there is a "wider and currently unaddressed future erosion risk… that may threaten the Scheme's proposed defences and other assets along the town's frontage". It must be noted that the Council cast their vote on the preliminary design of the Scheme before having sight of Dynamic Coast's 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.

   ii. The Scheme entirely fails to include appropriate catchment NFM measures, with only two small scale reservoirs are proposed to be used but nothing else within the catchment.

   iii. A significant number of suggestions have been put to the consultants (e.g., such as the development of a dune network on the seafront) over the last years but ignored. Commentaries by knowledgeable residents have never ever been replied to. Regarding Jacob's reports on NFM, the conclusions on the limited role of NFM/NbS are not supported by the very preliminary research undertaken with incomplete models. A note pointing out the limitations was prepared by [redacted] and submitted in June 2022. No response has been forthcoming.

3. **Objection 3: The Scheme will cause unjustifiable damage to the environment**

   i. We object to the current proposals on the grounds that the loss of ancient woodland is unacceptable and the mitigations proposed do not make up for it.
   The EIA states that 0.33 hectares of ancient woodland will have to be felled in construction of the scheme, while also highlighting that NatureScot has described such habitat as an 'important and irreplaceable national resource' (§7.42). Further efforts must be made to avoid this loss during the construction period, in particular, at Pinkie Playing Fields where the ancient woodland is used for forest school and otherwise available to school pupils for their wellbeing and education.

   ii. We object to the current proposals on the basis that the EIA itself identifies potentially "significant" effects in relation to protected species, the spread of invasive species, habitat loss. Moreover, the significant identified in respect of the geomorphology of the waters (during both construction and operational phase of the project) due to loss of channel capacity, inadequate floodplain storage and permanent changes "to the channel width and depth leading to alterations in flow

velocities and discharges" presents unacceptable adverse effects of the Scheme, particularly given the Scheme itself simply cannot be justified in its current guise.

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

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

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

vi. 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.

**4. Objection 4: The Scheme is out of step with current thinking on climate change adaptation and flood risk management**

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

**5. Objection 5: Spiralling costs of the Scheme raise profound questions regarding the management of public money by the Council**

i. No break down of costs has ever been presented to residents to justify the Council Leader and CEO agreeing a now estimated £103.535m in cost for the Scheme. At a

time of fiscal crisis for the Council and cutting of essential services, the exorbitant costs of the Scheme – which have ballooned since original inception - are extremely alarming and we object to the Scheme as taxpayers on that basis given the total failure of the Council to account for this in its spending. The Council has consistently failed to justify and account for how or why the proposed capex is now so high. We object on that basis.

ii. 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.

iii. 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/ Scottish Power, 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. The Council have, however, failed to provide any comfort on this critical point and provided only obfuscation when questioned on it. We object on the basis of procedural impropriety.

**6. Objection 6: Absence of independent scrutiny raises questions over whether the Scheme is delivering an optimal solution and proper use of public money**

i. 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.

ii. 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' which is entirely objectionable.

**7. Objection 7: The withdrawal of the Musselburgh Active Travel ("MAT") component to the Scheme fundamentally undermines the Scheme design as presented**

i. The MAT element of the design is an integral part of the Scheme and includes 5m wide cycle routes, position of the flood wall, inclusion of Ivanhoe bridge, design of the ramps, etc. The inclusion of MAT has been a key element of how the Scheme has been "sold" to residents. However, shortly before the Scheme was formally notified in March the MAT component was withdrawn (without formal notice or announcement). Since that time, the Council (and the Jacobs project team) have delivered inconsistent advice regarding what the implications of this are, largely claiming it is irrelevant to the Scheme and its design. This is patently false, and is contradicted by the EIA itself which states the "influence" of MAT on the design and ultimately that given the "design inter-dependence" (p.10, Outline Design Statement) between the Scheme and MAT the latter should form part of the EIA. Given that the Council (and the public) have been consulted on a design that fully

incorporates this element, it will be utterly impossible to now approve the Scheme absent the EIA being re-issued and the Scheme re-presented in light of this critical development. We therefore object to the Scheme on the basis that it is impossible to segregate the MAT from the broader Scheme and will need to be reconsidered as a result. It would be procedurally improper for the Council to now seek to approve a Scheme it is impossible for them to apprehend or assess. We further object on procedural grounds to the fact the Council failed to properly notify all stakeholders regarding this critical development and have therefore allowed residents and affected persons to be entirely misled by the intended outcome of the Scheme. Any "support" the Council claims to have received to the proposed plans from the community as part of its consultation process must be rendered void given that many residents felt that MAT was a key part of the Scheme and lent their support to it because of it.

**8. Objection 8: Democratic deficit and lack of transparency**

i. The Scheme has proceeded via sham consultations led by the Jacobs design team that have not materially impacted the design of the Scheme, the general public being faced with continual obfuscation and frustration tactics by the Council (such as inconsistent responses to questions, requesting very large sums of money to administer straightforward Freedom of Information requests etc) as well as the Council continually undermining their democratic accountability by delegating queries to the (Jacobs-led) project team. We therefore object to the Scheme on the basis that it does not genuinely reflect the outcome of an engagement with the residents of Musselburgh – to whom the Council serve and must have regard in the exercise of their public duties.

ii. 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 Council and its consultants about the fundamental stated aims and justification for the Scheme.

iii. The outcomes of consultations that the Council has undertaken have not been made public, such as the Musselburgh Business Partnership. A questionnaire was sent out to c.150 Musselburgh based businesses to "help shape the final scheme and the methods of construction". Where is this evidence? What questions were asked? Why have the public been denied this information? We object to the fundamental lack of transparency there has been with how the Scheme has been managed to date, as it raises important questions regarding the exercise of the Council's statutory authorities.

iv. The Council has sought to downplay the depth of public opposition to the Scheme, and neutralise genuine democratic opposition whilst simultaneously seeking to present the Scheme as being well received in its own materials. For instance, the Council rejected a petition led by the "Pause the Flood" opposition group which had garnered 2.3k+ signatures (with a further 1k+ "wet ink" signatures collected since).

By contrast, at Public Exhibition No. 1 - 200 people attended. 94% 'supported the flood scheme' . This represents 85 people in a population of 19,000 (0.93% of the population). The summary report also does not reproduce the question that generated this result. We object to the Scheme on the basis that public opinion has been routinely ignored without justification and that Jacobs have sought to present a Scheme to the Council that lacks credibility.

**9. Objection 9: Breach of Human Rights**

i. "*People depend on the environment around them for their physical and mental health, and general wellbeing*" (Flood Risk Management (Scotland) Act 2009. The progression of the proposed Scheme will have serious negative implications for us and our [redacted] family [redacted] given the Scheme will interfere with the right to respect for private and family life (Article 8) of the European Convention on Human Rights and peaceful enjoyment of our possessions (Article 1 of the First Protocol to that Convention). Whilst it is acknowledged that any actual or apprehended infringement of such Convention Rights is usually justified in the public interest and in accordance with a given council's duty to carry out works to reduce the likelihood of flooding of land, given the substantive nature of the objections that make the progression of the Scheme in its current formulation these breaches cannot be ignored and are consequently unjustifiable.

**10. Objection 10: Compensation**

i. Compensation must be paid to any person who has sustained damage as a consequence of exercising certain powers under the Act (see section 82). Section 83(1) defines damage as the depreciation of the value of a person's interest in land or the disturbance of a person's enjoyment of land. 'Enjoyment of land' therefore needs to be considered. We object to the fact there is no evidence that the EIA (or the Council) have considered this in any detail.

ii. Compensation can be justified specifically due to any structural damage to my property as a result of the engineering works for embankment formation and bridge replacement in close proximity [redacted] given that the construction of walls will involve the removal of large, mature trees and use of heavy machinery including steelpile-driving equipment, close to houses. Piling works could cause significant vibrations, potentially damaging houses as well as causing disruption. There is no guarantee independent full surveys will be carried out beforehand and we object on that basis.

iii. Also, we 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 and my children's access to the river-side, grass, and beach front ([redacted] this is considered an essential amenity that the Scheme will deprive us of). Also, the demolition and construction works in the proposed Scheme will affect my health and wellbeing and that of our family given that EIA notes "potentially significant effects in relation to construction dust emissions (affecting amenity, human health and vegetation) and greenhouse gas emissions affecting global climate." The EIA further identifies potentially effect effects on pedestrian amenity (at 14 locations), fear and intimidation (at 15 locations) and accidents and safety at

15 locations). We are deeply concerned that the Scheme will additionally diminish the value of our property and we expect to be compensated for the sustained damage. Please note that such damage is anticipated in the EIA itself which notes:

"…*potentially significant effects are predicted in relation to the impacts on the townscape and views from key viewpoints during construction, and some years during operation, associated with the presence of construction plant and features and the removal of roadside and riverside vegetation, loss of woodland and amenity trees, the loss of vegetative screening in certain locations and the finished works*."

Yours sincerely,

[redacted]

22 April 2024

**Subject:** (0282) Objections to the Musselburgh Flood Protection Scheme
**Sent:** 22/04/2024, 20:21:13
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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

**Categories:** [redacted]

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**General feedback:**

I have attended some of the meetings and presentations on the planned scheme and looked at the brochures sent to my house. While these were useful I feel that the council should have tried to involve some 'experts' other than Jacobs. As a lay person it was really difficult to assess from the illustrations of what the scheme would look like in reality - if you were walking or cycling near the new barriers. Possibly organisations representing wildlife/habitat management, hydrologists or academics who had looked at other flood prevention schemes could have been invited to make the process seem less partisan. The council also seemed to be in the trap of having to consider a very extensive scheme due to the way projects are funded. Could there not have been more representation to SG to approve a project that was completed in stages - allowing the chance for some nature based options to be trialled before the major construction goes ahead? Did it really need to be for a 1 in 200 years event??

**Objections to the scheme from:**
[redacted]

My main concerns are

- the loss of amenity for locals, residents and visitors - the proposals involve walls and embankments which in many areas will prevent people from seeing and accessing the river and the sea. i cycle on walk around these area often

- the affect on wildlife - there doesn't seem to have been any study into the affect of the scheme on the wildlife in the river. the area near the mouth of the Esk in particular is a feeding/breeding ground for birds.

- more emphasis could have been put on nature based solutions. I appreciate this won't be the full answer to potential future flooding. Jacobs have looked at this but without any independent sources it is impossible to know if this has been optimised. the disruption from the work (and removal of established trees) will have a negative effect on biodiversity and the huge amount of carbon emitted by using so much concrete should be something we are trying to avoid. does this claim to be a net zero project? (that's the very least we should be demanding).

- the EIA mentions the amount of air bourn dust particles likely to be emitted. given the project will take years the effect on all residents but particularly children living, or working/attending school, near the construction sites should be taken very seriously.

- this will be a major construction project and the consequent disruption is likely to have a negative impact on businesses in Musselburgh

I hope you will consider these points

Regards

[redacted]

**Subject:** (0283) Objection email
**Sent:** 22/04/2024, 20:29:57
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections
**Cc:** McIntosh, Shona

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

**Categories:** [redacted]

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

Dear Mr Grilli,
This email is a formal objection to the Musselburgh Flood Protection Scheme.

I am objecting to the proposed scheme as I sent an objection by email on 18th and again the same email today without receiving an acknowledgment to either. This is not following the due legal process for objections and I do not know whether this email has been received or will be registered.

I am also objecting to the EIA which lacks proper investigation into the effects on birds and birdwatchers. Musselburgh is renowned for for the large variety of birds which visit our shores and the river and many visitors enjoy viewing them, bringing trade to local businesses.

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

Yours faithfully,

Signed [redacted]

[redacted]

[redacted]

**Subject:** (0284) Scheme Objection Letter
**Sent:** 22/04/2024, 20:37:15
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections
**Attachments:** Objection Letter - [redacted] 230424.pdf

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

**Categories:** [redacted]

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Good evening,

Please find attached my objection letter relating to the Musselburgh Flood Protection Scheme.

Thanks
[redacted]

[redacted]

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

23 April 2024

Dear Mr Grilli,

I, and my partner[redacted] are joint owners of [redacted] (the property) is directly adjacent to the river Esk (it sits approximately [redacted] metres in distance from the front door to the river) and this property as well as us, will be heavily impacted by the most recently published design under the Musselburgh Flood Protection Scheme.

I would like to highlight that I am in favour of a scheme that conserves and provides flood protection to the area. However, having reviewed the materials published and made available to the public, I have the following objections to raise.

**Objection One**

**Health Risk: Noise Pollution**

There does not appear to be any mention of what liability the scheme accepts should the sound levels cause harm (diagnosed by a medical professional) to humans or animal life (e.g. pets) over the period of construction.

Data from the following: EIA-Report-Chapter-8-Noise-and-Vibration states that the predicted cumulative effects are 69 to 80 dB over the period of the scheme which exceeds the acceptable level notes in the report.

If I encounter distress from sound levels that exceed the acceptable level of 70dB, as stated by the Environment Impact Assessment (EIA), and this stress causes a medical issue, the information provided does not state the level of responsibility the scheme accepts should this situation arise.

**Objection Two**

**Health Risk: Vibration Level**

I suffer from [redacted], and I receive medical treatment when required. I am impacted by structural movement including vibrations. Whilst I agree that flood walls should be placed along the river, the intrusive nature of creating an additional bridge plus a 5-metre-wide travel path; all seem to point to endeavours that are not actually related to the prevention of a future flood risk. I am concerned that the vibration work (currently estimated as "very small" in EIA Report: EIA-Report-Chapter-8-Noise-and-Vibration that comes with all these changes will re-introduce a medical concern, particularly is the estimation is incorrect once the project is underway.

The scheme does not mention what measures will be put in place if residents are medically affected by the scheme and unable to continue work over the period they are affected. I am raising this objection on the grounds that the scheme has not asked residents to stipulate medical issues or requirements since details of the scheme were published by the Musselburgh Flood Protection Scheme on 21 March 2024.

The scheme states that: "No measures have been identified during the noise and vibration assessment that can be incorporated in the design to mitigate the construction noise and vibration impacts.

**Objection Three**

**Health Risk: Construction Debris**

There is a current debris risk in relation to the proximity of the property front door, where the work is proposed to commence in front of the properties on this part of [redacted]. From what I can see in the following proposal: Proposed Scheme - Musselburgh Flood Protection , no extra design protection measures have been proposed, considering that our property is approximately 12 metres from the riverbed. This risk is supported by the observation below.

There is currently a danger to life risk at present. Loose rubble is increasing on the road directly in front of my property (within 1 metre from the front door) because this road is not adequately maintained. This is posing a danger to animals, passersby, and residents.

On 10 April, I noticed airborne debris, hitting properties alongside this street from cars driving by. If any of the front doors on these properties had been opened, this could have hurt someone. There is also a potential for windows to be broken as well (see **Figure 1** for a sample of the size of the loose debris). Although a brief repair (the duration of the work was undertaken in less than 10 minutes, which I observed) was made in 2023 following complaints from residents, within weeks it returned to its current stage (see **Figure 2**). Allegedly the council were planning to inspect it in December 2023 and as of 23 April 2024 no corrective action has been taken.

**Figure 1**

**Figure 2**

[redacted]

Whilst this public road is not part of the design proposal, I am objecting to the current design under this scheme on the basis that proposed construction in this area could have a compounding impact on the level of debris left unattended and could further increase the risk of someone or something becoming seriously harmed, as well as property damage.

**Objection Three**

**Damage Risk: Construction Debris**

The published EIA predicts that no significant damage is expected to surrounding properties. I have not been consulted on the level of damage that could happen to my property (significant or otherwise) nor what measures I should take if I observe damage to my property during construction or damage identified by a qualified surveyor / building professional.

The scheme does not assert that all damages and repairs in the area and to residential properties, as a result of the scheme, will be paid for by the scheme. The scheme does not mention how damages will be monitored, logged, and paid for.

I object on the basis that the Musselburgh Flood Protection scheme does not state that it is responsible for all repairs together with an associated timeline on when those repairs will be made by, if predictions made that no damage is expected prove to be incorrect. This missing information leaves this point open to dispute once the scheme is underway and leaves an impression to me, that the cost may be passed onto residents or will be open for discussion which is something that should be agreed before the scheme is put forward for approval. By doing the financial assessment beforehand, the scheme can then accurately forecast the total cost of the scheme including any associated repairs to residential areas.

**Objection Four**

**Damage Risk: Residential Property Foundations**

The EIA assumes that no damage or impact is expected for construction works that take place over 5 metres in distance from a property. My property falls just outside this and for this reason it appears that no specific assessment has been conducted on my property with my knowledge or consent to determine if the current foundations of my property are at risk. It is unclear how the scheme has made predictions in this case without property-specific data.

The scheme does not state in detail how it is able to determine that my property will remain structurally sound, under a construction period of 48 weeks over three years (time periods were stated in EIA-Report-Chapter-8-Noise-and-Vibration. I object on the grounds that an observational look at the street (as indicated in the proposal that no public consultation was required for this part) bares no valid link to any assertions regarding the structure of my property nor any appointed risk level determined from the Scheme in relation to it.

**Objection Five**

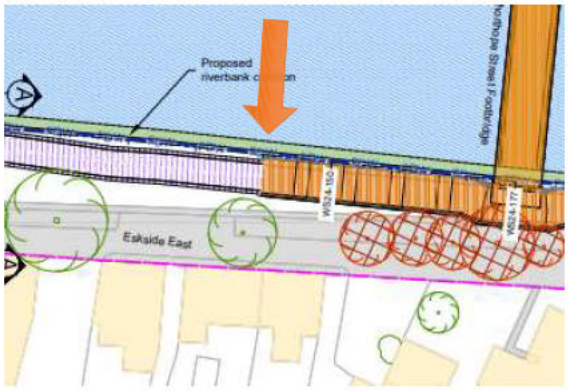
**Privacy and Property Value**

The Shorthope Street Bridge placement in the proposed scheme shows that the bridge will now face more towards residential properties (See **Figure 3**).

I have a significant concern that people actively using the bridge (to be used to go onto the new travel path as a commuting route on a regular basis), will have [redacted] This affects my way of life.

Furthermore, having a bridge positioned in this way could [redacted] and I have a concern that the value of my property will be adversely affected because of this. The scheme does not mention how residents in this situation will be adequately compensated as a result of this long-term structural change.

**Figure 3**




[redacted]

**Objection Six**

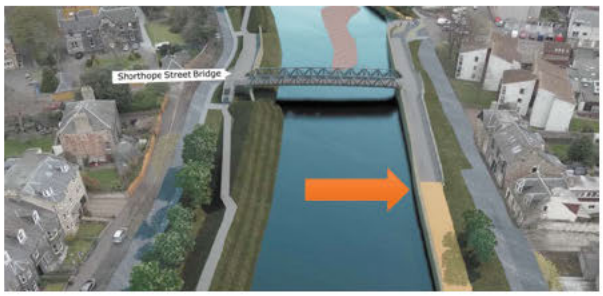
**Misleading Design Information**

The images in the photomontage (Stage 4 Outline Design statement) do not show a view of the bridge position nor the proposed ramps in relation to the residential properties on Eskside East (See **Figure 4**). This feels misleading as it is not showing the true extent of this design proposal in a way where people can see the design proposal from multiple angles within surrounding residential housing.

**Figure 4**

The image in **Figure 3** (X (musselburghfloodprotection.com)) suggests that the Shorthope Street Bridge ramp [redacted] **Figure 4** (Public Exhibition No. 2 - June 2023 - Musselburgh Flood Protection) shows the Shorthope Street Bridge with a ramp ending [redacted] and in **Figure 5** the ramp has been omitted completely.

**Figure 5**




[redacted].

**Figure 5**

Ramp has been omitted.

Design inconsistencies are leaving residents and other interested parties to speculate or guess what the complete outline design could look like. Consistent full disclosure of the design proposal (including to the public) by the Musselburgh Flood Protection scheme should be crucial and play a key part in whether the scheme should be approved to the next stage.

I would appreciate if you would acknowledge receipt of this letter.

Yours sincerely,

[redacted]

**From:** [redacted]
**To:** Musselburgh Flood Protection Objections
**Subject:** (0285) Objection to the proposed Musselburgh Flood Scheme
**Date:** 22 April 2024 20:38:58

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[redacted]

22nd April 2024

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

Dear Mr Grilli,

I am writing to object to the recently published Musselburgh Flood Protection Scheme. I am a resident of [redacted] in Musselburgh, where I have resided since 2021 and my property appears on the SEPA flood protections maps as "high risk" for surface flooding and "medium risk" for both river and coastal flooding. I have a young child who is involved in several community activities, utilising many of the areas affected by the proposed Musselburgh Flood Scheme.

I object to the published scheme because:

- The design of the wall is not aesthetically pleasing and would interfere with the natural beauty and charm of our town.
- The impact to the trees that line our river banks and the streets where we walk. Trees cannot be simply cut down and replaced by other trees. Cutting down a tree has an impact on the ecosystems and global warming. Replacing a tree by another tree simply does not do.
- The Flood Protection Scheme has a direct impact on areas that are Common Good Land, such as Fisherrow harbour and the Links. Both are areas that our

family uses on a regular basis, both individually and as part of coordinated activities.

- I am perturbed about the disruption that the building work will bring to our town. This will have a direct impact on the wellbeing of residents and visitors. Some of us moved to this area to escape the traffic, the noise and the pollution, only to have this scheme bring all of this back.

- The engineers appointed to design the project have also been allowed to write the Environmental Impact Assessment (EIA). I would question how such practice is encouraging of transparency and objectivity, and furthermore I would surmise that it calls for the application of bias in their options appraisal.

- I am apprehensive about the fact that in January the Council gave the green light for the scheme to continue, in spite of not having received the full EIA.

- The projected cost of the scheme, without caps and the fact that a great amount of funds was already spent. How will this impact our other services, such as health, services for the elderly and disabled etc. Why is this a priority over those other needs of our neighbours.

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

Yours Faithfully

[redacted]

Sent from my iPhone

**Subject:** (0286) Objection to Musselburgh Flood Protection Scheme
**Sent:** 22/04/2024, 20:39:47
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

---

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

**Categories:** [redacted]

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

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

[redacted] 22nd April 2024

Dear Mr. Grilli,

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

You will note that I am a resident of [redacted] but I am passionate about the birdlife of the Lothians and have been birdwatching regularly at Musselburgh for many years (my first visit was in [redacted] and I visit the area every week or two). I am a member of the [redacted] and you'll be aware that the membership has been concerned about this scheme since it was first proposed, particularly its failure to properly examine the potential impact on the area's birdlife.

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

Inadequacy of the EIA Report's Ornithology Baseline

The results presented in the EIA Report from surveys of shoreline and coastal birds (the 'through the tide counts') are insufficiently detailed to adequately assess the impacts of the Scheme on these species. This failure is especially important because the Scheme is adjacent to, or in places actually within, the Firth of Forth Special Protection Area (SPA), the Firth of Forth Ramsar Site, the Firth of Forth Site of Special Scientific Interest (SSSI), and the Outer Firth and the St. Andrews Bay Complex SPA. These are internationally and nationally important designated sites for birds, and any assessment of impacts on these designations require must be informed by comprehensive robust and appropriately detailed baseline data. The EIA Report does not present such data. It is therefore essential that baseline bird survey data are properly presented, specifically that the distribution and abundance of qualifying features of the SSSI, SPAs and Ramsar site at least are mapped to species level and their abundance shown for each survey area (notably through the tide count survey areas), along with the key areas for roosting and foraging of those species. Without this information, the EIA lacks the necessary detail to enable consultees to judge whether or not the applicant's assessment of impacts from the Scheme is correct. Consultees cannot therefore also judge whether proposed mitigation measures are adequate, or whether the identification of residual impacts on birds can be relied upon. For all these reasons, the baseline survey data in the EIA in its current form is not fit for purpose. It needs to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report. As additional bird surveys are still being undertaken, the more detailed results requested can be published at the same time as these additional data (but all to the appropriate level of detail).

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

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

Moving on to obtaining desk study data from the British Trust for Ornithology (BTO), this key organisation administers a number of bird recording schemes, including the Wetland Bird Survey (WeBS), which cover this area. It is EIA good practice, as part of gathering desk study data for developments in coastal areas, to obtain and present WeBS results, alongside survey data. Bird surveys commissioned for EIAs are inevitably restricted to relatively short-term sample surveys, comprising snapshots of bird activity. The WeBS scheme and its predecessor have been running for decades and provide important long-term insights into species composition and abundance of waders and wildfowl of key sites, and long-term population trends. In particular, for large designated sites like the Firth of Forth SSSI/SPA/Ramsar, WeBS data are also essential to place local bird populations (i.e. the birds present in the Scheme area) in their wider Firth of Forth context, so that impacts from the Scheme, and cumulatively with other projects, can be adequately assessed. Whilst it is noted that in Section 7.3.3 of the EIA it states that the desk based assessment included data responses from organisations including the BTO, detailed WeBS data are not provided. The reference to WeBS data is limited to total species counts (in the EIA Section 7.5.6.1 'Desk-study and preliminary ecological appraisal'). This states:-

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

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

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

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

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

Baseline Survey Accuracy

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

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

therefore, and it further undermines the reliance that can be placed on a significant proportion of bird survey data used in the EIA Report.
It is understood however, that bird surveys are still being carried out, I therefore object until these un-impacted additional bird survey results are published as part of the submission of Further Environmental Information and HRA.
Failure to Identify and Assess Habitat Loss from the Scheme
The EIA Report attempts to identify and quantify the loss of habitats from the Scheme, to assess the significance of these losses, the mitigation that will be required and the resulting residual impacts and their significance.
However, it completely fails to identify the main habitat impact from the Scheme, namely the loss of shoreline and inter-tidal habitats over its 100-year operational life. These losses will occur as a direct result of the Scheme's construction of hard defence structures along the coast where these are currently absent or limited, through what is known as 'coastal squeeze'. This impact needs to be fully identified and assessed in the EIA Report, in particular the Scheme's proposed hybrid wall structures at Work Sections 6 and 7 (impacting 325m and 290m of coastline respectively) and its concrete walls along Work Sections 8 and 9 (impacting 393m and 132m of coastline respectively) (see Table 4-2 'Summary of Scheme by work section' in Section 4.4.1 Scheme Layout Overview, and Figures Appendix A41j to A41l in Appendix A of the EIA Report). The existence of this operational impact is not even mentioned in the EIA Report Biodiversity Chapter, let alone assessed, with only the most cursory mention given in 7.5.9.3 'General trends'. The EIA Report therefore does not meet its own commitment (in Section 3.6.2 'Future baseline') to complete '*Where appropriate, an appraisal of the future baseline without the Scheme … where feasible to allow for consideration of the operational impacts of the Scheme over its 100-year design-life'*.
This is of particular concern because these habitat losses will impact the qualifying features of the Firth of Forth SSSI, SPA or Ramsar Site (and the conservation objectives of the latter two designations).
The omission of this impact in the EIA Report must be rectified and the necessary modelling and full assessment of habitat loss from coastal squeeze be fully assessed and published as Further Environmental Information. The assessment of these habitat losses on the integrity of the Firth of Forth SPA and Ramsar Site must also be included in the HRA, to inform the compensation that will be required, if should a derogation case be accepted.
Given how important this impact is, it is also worth re-stating the Council's published Scheme objectives (EIA Report Chapter 4, Section 4.1 and Table B4 in Appendix B4) that include the following Environmental Objectives:-
*1. That the Scheme will achieve as a minimum a neutral impact on the environment.*
*2. To ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures.*
*3. To ensure that the Scheme considers the impact of climate change and includes appropriate provisions to mitigate any impact.*
*4. To ensure that the Scheme considers in full, and includes for any appropriate measures, to protect the Firth of Forth and its protected statuses.*
Clearly, these objectives cannot be achieved if the Scheme's impacts are not adequately identified, assessed, and mitigated and if mitigation or enhancement proposals (such as those in EIA Report Table 7.7) are not considered in terms of resilience to sea level rise and climate change.
In addition to failing to include operational habitat loss, the habitat loss figures that are currently included for construction and operational impacts lack clarity and consistency across the Biodiversity Chapter and Appendices. For example, the extent of temporary lost habitat given in Section 7.6.2.1.1 'Firth of Forth SPA and Ramsar' is given as 'approximately 2.14 ha' but the habitat breakdown figures only add up to 1.711 ha. Similarly in Section 7.6.3.1.1 'Firth of Forth SPA and Ramsar', the permanent loss of habitat from the Firth of Forth SPA and Ramsar is given as 4.3 ha, but again the figures for the habitats lost amount to just over 1.46 ha. This lack of clarity and inconsistencies in the EIA Report make it difficult for consultees to clearly understand the scale or location of the Scheme's habitat impacts. It is important that these losses are clarified, including in the HRA prior to its finalisation, and if necessary, through the submission of Further Environmental Information.
Failure to Appropriately Identify Plans and Projects to Consider for the Cumulative Impact Assessment
Section 7.3.9 '*Cumulative effects'* of the EIA Report identifies that *'A review of developments in the local area as listed on the East Lothian and Midlothian Council planning portals was conducted. The assessment focused on developments of any size within the working areas and those over 1 ha in size up to 5 km from the working areas in Musselburgh and the reservoirs. In addition, Grangemouth Flood Protection Scheme (GFPS) was also considered as part of the assessment, as requested by NatureScot during consultation for GFPS'*.
The cumulative assessment needs to encompass developments that have significant potential to impact key ecological receptors. The potential for cumulative/in combination impacts is determined by impact pathways, not by arbitrary thresholds such as development size or distance from the Scheme (neither of which have any regulatory basis or reflect CIEEM guidance)[5].
Movement of birds around the Firth of Forth SPA/Ramsar site have been relatively well studied, and this information should be referred to in order to help determine potential impact pathways, and thereby the plans and projects that need to be taken account of in the cumulative/in combination assessment. It is important that this impact/pathway/receptor approach is adopted in the HRA's 'in combination' assessment, if made available to consultees, otherwise through the submission of Further Environmental Information.
Repeated Lack of Evidence to Substantiate the Findings of the Impact Assessment
In order to comply with EIA guidance, it is essential that the assessment of impacts is supported by appropriate evidence. However, the EIA Report consistently fails to provide evidence to back up the assessments made on construction and operational impacts of the Scheme on birds.
The rare instance when evidence and published peer reviewed information is referenced in support of the assessment of impacts is for kingfisher (see section 7.6.2.3.4). Kingfisher is only a species of regional importance, yet the EIA Report's assessments of

impacts on internationally or nationally important bird species are repeatedly made without any reference to peer reviewed or other evidence, or even to standard NatureScot guidance (for example, in relation to disturbance, Goodship and Furness 2022[6]). A typical example of unsupported assertions is in Section 7.6.3.1.1 'Firth of Forth SPA and Ramsar', which states 'The remaining area to be lost within the SPA is comprised of habitat rarely used by qualifying species and therefore is considered unlikely to provide functional habitat'. There are no data presented to back up this assessment, since the EIA and its Appendices omit the necessary detail on the distribution and abundance of individual species.

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

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

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

There are repeated instances in the EIA Report's Biodiversity Chapter where assessments of impacts on birds downplay (i) the value of their habitats - because it is stated they are already subject to disturbance, or (ii) the significance of disturbance to birds - because it is stated they will move elsewhere within the SPA, or (iii) impacts being insignificant - because the area of impact is small. These assertions are consistently unsubstantiated by evidence (as already highlighted above) and are a style of assessment more typical of commercial developers seeking to justify damaging protected sites. These assertions are inappropriate in those circumstances, but are totally inappropriate for Councils, given the legal and policy obligations they are under to protect and enhance biodiversity, notably the Nature Conservation (Scotland) Act 2004 and National Planning Framework 4 (NPF4).

Furthermore, no reference is made to the fact that many wildfowl and wader populations in the Firth of Forth have already suffered long-term declines as a result of development impacts, disturbance and habitat loss[8], and that approximately one third of the Firth of Forth SPA/Ramsar's qualifying species are in unfavourable conservation status (Protected Nature Sites (sepa.org.uk), accessed 19.04.2024). The Council's around the Firth of Forth, together with the Scottish Government, NatureScot, businesses and local communities, need to be working together to ensure qualifying features of the SSSI, SPA and Ramsar site return to favourable conservation status.

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

Disturbance to Birds During the Scheme's Operational Phase

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

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

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

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

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

Impacts on Recreational Amenity Over the Construction Period, Specifically Birdwatching

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

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

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

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

Yours Faithfully,

[redacted]

---

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

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

[3] For example, see C.6.3 and Box C. 6. Practice .1. in the reference cited in Footnote 1.

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

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

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

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

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

[9] Presumably these estimates are available from the business case for use of public money on the Musselburgh Active Travel Network.

**Subject:** (0287) objection to MFP
**Sent:** 22/04/2024, 20:53:55
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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

**Categories:** [redacted]

You don't often get email from [redacted]. Learn why this is important

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

[redacted]

22nd April 2024

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

Dear Mr Grilli,

I am writing to object to the recently published Musselburgh Flood Protection Scheme. I am a resident of [redacted] in Musselburgh, where I have resided since [redacted] and my property appears on the SEPA flood protections maps as "high risk" for surface flooding and "medium risk" for both river and coastal flooding. I have a young child who is involved in several community activities, utilising many of the areas affected by the proposed Musselburgh Flood Scheme.

I object to the published scheme because:

· The design of the wall is aesthetically horrendous and would interfere with the natural beauty and charm of our town. A solution must be found that does not involve a tall concrete wall. This is a town not a prison camp.

· The impact to the trees that line our river banks and the streets where we walk. Trees cannot be simply cut down and replaced by other trees. They are Musselburgh's trees. They enhance the lives of everyone in the town. Cutting down a tree has an impact on the ecosystems and global warming.

· The Flood Protection Scheme has a direct impact on areas that are Common Good Land, such as Fisherrow harbour and the Links. Both are areas that our family uses on a regular basis, both individually and as part of coordinated activities.

· I am perturbed about the disruption that the building work will bring to our town. This will have a direct impact on the wellbeing of residents and visitors. Some of us moved to this area to escape the traffic, the noise and the pollution, only to have this scheme bring all of this back.

· The engineers appointed to design the project have also been allowed to write the Environmental Impact Assessment (EIA). I would question how such practice is encouraging of transparency and objectivity, and furthermore I would surmise that it calls for the application of bias in their options appraisal.

· I am apprehensive about the fact that in January the Council gave the green light for the scheme to continue, in spite of not having received the full EIA.

· The projected cost of the scheme, without caps and the fact that a great amount of funds was already spent. How will this impact our other services, such as health, services for the elderly and disabled etc. Why is this a priority over those other needs of our neighbours.

. And again the design of the wall is aesthetically horrendous. If a flood prevention scheme is necessary, you must come back with a better solution, a solution which does not destroy the experience of living in the town.
Please acknowledge receipt of my letter of objection, in writing. Please advise me of next steps, and timescales.

Yours Faithfully,

[redacted]

**Subject:** (0288) Objection to proposed flood scheme
**Sent:** 22/04/2024, 20:56:05
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

**Categories:** [redacted]

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[redacted]

To Whom it may concern,

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

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

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

Musselburgh is beautiful. Everybody agrees that river with its green riverbank, ducks, geese and all kinds of birds is truly special to our town.
The Flood Protection Scheme design is simply not fit for character of the town.

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

I also object to many mature trees being killed to facilitate this scheme.
We should enhance green spaces and protect our trees and wildlife. I would expect the Council to choose the scheme that prioritises natural solutions and not the one that replaces trees and green spaces with concrete.

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

Regards, [redacted]

P.s

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

Sent from my iPad

[redacted]

22.04.24

Carlo Grilli
Service Manager - Governance
Legal Services
East Lothian Council
John Muir House
Haddington
EH41 3HA
mfpsobjections@eastlothian.gov.uk

Dear Carlo,

I am writing to object to the recently published Musselburgh Flood Protection Scheme. I moved to Musselburgh in [redacted], having been an Edinburgh based resident up until that point. I visited the River Esk in Musselburgh many times before and since moving here, and I can see that the town has come a long way in recent times in terms of desirability and positive changes made to improve biodiversity and quality of life here for both people and wildlife.

I take great interest in nature and the outdoors, and am in favour of natural flood defences instead of man-made structures such as the proposed stretch of concrete walls. I strongly believe there is a need to create flood defences in line with climate change, however I also feel that there are many other options worth exploring that will not cause a negative detriment to the birds and trees that surround and use the river in its current format.

Natural flood management (NFM) helps manage flood and coastal erosion risk. It does this by protecting, restoring and emulating the natural processes of catchments, rivers, floodplains and coasts. NFM can include planting trees and hedges to absorb more water, catch rainfall and slow the flow of water on the ground surface, when there is excess rainwater covering the ground with plants to reduce water pollution and surface water run-off, diverting high water flows and creating areas to store water, creating leaky barriers to slow water flow in streams and ditches, restoring salt marshes, mudflats, and peat bogs. From what I understand any flooding that has occurred until now has been minimal.

As a taxpayer and someone who has set up a long-term residence in Musselburgh, I can see there is pressing and increasing demand for more funding and support for the local community in terms of healthcare facilities, schooling and transport to name but a few. I would hope one day to start a family in Musselburgh, renowned for the river, lagoons, coastal access and history. I believe this would be heavily tarnished should the planned flood

protection scheme go ahead in its current format, it seems there has been no alternatives proposed.

In summary, I object to the published scheme for the following key reasons;

- The negative impact this will have on wildlife and nature at the river and beyond
- The inevitable yet avoidable removal of many mature trees along the river, part of our existing natural flood defence, planting more new trees will not be be nearly as effective
- A more natural solution or solutions should prove just as if not more effective than concrete walls - as noted above
- The massive cost implications, it is estimated to cost £132m - the whole town could be regenerated with this amount of money
- The effect this will have on general amenity and well being in the town
- The damage to historic and commercial buildings that this amount of work will cause
- The disruption this will cause the residents and visitors of Musselburgh, we will have no access to the river while this work is being carried out - a key factor in why I and many others chose to move/stay here

Please acknowledge you have received my letter of objection in writing. Please advise me of the next steps and timescales.

Yours Sincerely,

[redacted]

**Subject:** (0290) Objection to Proposed Musselburgh Flood Protection Scheme
**Sent:** 22/04/2024, 21:04:03
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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

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

Dear Sir

I am writing to formally register my personal objection to the Flood Protection Scheme proposed for my home town of Musselburgh. For the record I am not against flood protection measures but feel very strongly that this plan is flawed, excessive and gives little consideration to nature based solutions.

We are often told that climate change has increased the risk of flooding. Sadly in recent years the biggest cause of this is human activity including deforestation and the release of carbon into the atmosphere. I believe this plan is fighting fire with fire. The production of concrete, and the destruction of trees seems madness to me. Some have said that this scheme is for future generations and their grandchildren. I think todays young people will ultimately be ashamed if this proceeds as it goes against nature and the environment and adds to the problem. They are much more aware of the reasons for climate change than previous generations.
Currently we enjoy the natural charm and health boosting benefits of our coast and river. Future generations will potentially be living with graffiti covered concrete walls and a run down town.

1. Financial Costs - despite a large chunk of the costs coming from a Scottish Government Fund, a significant sum has to be paid by the council . In reality I believe this means the tax payer. These costs have risen considerably already and I believe will continue to rise. How can this excessive cost be justified especially in the current financial climate? . And once complete how will the structures , bridges, pathways be maintained ?
Our council appear unable to maintain our current roads and drains, or to finance the repairs of our much loved Brunton Hall. The district is already rife with graffiti (if it doesn't move it gets graffiti). The proposed walls will be a major draw for these so called artists - how will the council tackle this? I fully appreciate that budgets are tight but this makes it all the more shocking that this will take priority over other pressing and important matters . Improving health services for an ever expanding population is another example of top priority issues.

2. Design Destruction of the natural beauty of our river - the proposed plan involves significant hard engineering which will destroy the charm and natural beauty of our river. The impact on trees and all the wildlife (swans, ducks, kingfishers, otters to name but a few) will be devasting and distressing. I feel very strongly about this and find it heartbreaking. This project is already having a negative affect on my well being . Surely a more nature based approach should be considered in full .

3. Buildlng Sites / compounds- it would appear that this project, if approved could take 4 to 5 years to complete. This will cause major disruption, pollution , noise and inconvenience for the townsfolk and businesses.

4. Level of Risk - despite what we have been told about the risk to Musselburgh there has been no major flooding (other than blocked drains etc) . There has however been damage and flooding to other areas., Surely any finance available should be spent on areas that have actually been flooded.,

In conclusion, my objections are not skillfully or "expertly" presented and I am sure there will be others who can do this much better than me,  They do however come from a place of genuine concern and love for my town.
Can you please kindly acknowledge receipt of my email Thank you

Sender Details

[redacted]

[redacted]

23rd 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 publish Musselburgh Flood Protection Scheme.

I am a resident of Musselburgh and I don't believe that the flood protection plan, which is proposed, is in the best interests of the town, environment, residents or economy.

I strongly object to the published scheme because:

1. I don't believe that the consultation has been designed well enough to inform the lay public (and councillors) of the true details of the plan. Documentation and plans are complex, misleading and do not give an accurate vision of how the flood protection scheme will look, the disruption it will cause and the overarching need for this. There should have been an option for town residents to vote on whether they wanted the flood protection plan proposed. Consultations were not advertised well and available times could have been considered better to allow everyone to attend.
2. Over £130m has been allocated to this project, over £50m to flood protection. These costs are likely to rise, and there is no transparency on how this budget is allocated/broken down. I have a real concern that other Council services are being under-funded due to this project. To name a few, elderly care homes have closed, Brunton Hall repairs on hold/stopped, community initiatives reliant on donations, drain unblocking (which is the cause of most of the town's flooding), while contractors reap the benefits of uncapped funding. Priorities are worryingly misplaced, and the cost to the taxpayer is appalling.
3. The impact on wildlife and nature is a real concern. Many trees will be cut down (again no transparency of this on the plans) – trees that have existed for many years and provide natural flood protection (as well as grass). Wildlife is abundant in Musselburgh, especially on the river. We need to protect and nurture our wildlife and I'm not sure how the birds will adapt to having no direct access to the riverside banks to feed, how they will cope with the excessive and disruptive building works and the pollution this plan will create.

4. The Active Travel Plan should not to connected to this project. Part of the Active Travel Plan has been refused planning permission so by that fact, the whole proposal should be re-costed and alternative plans considered.
5. The benefit to human health and well-being should not be underestimated. [redacted] wheelchair users who will not be able to see the river now. This project has not considered the social well-being of town users and residents. In this time when poor mental health is at an all-time high, it's absolutely necessary that these types of proposals consider the social and health aspects of the residents and visitors.
6. The alternative: natural flood protection management has not been investigated further. Other towns have successfully implemented natural flood protection so this would be the best route to consider and ELC obviously have funding to investigate this properly.
7. The disruption to the town, during the implementation of the flood protection, will be devastating to its people, wildlife and businesses. There has been no clear answer on where the machinery, temporary offices, building sites etc will be placed and how this will affect services, access to the river, paths, seafront etc.

Musselburgh is a conservation area which has been completely ignored by ELC.

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

Yours faithfully,

[redacted]

[redacted]

Carlo Grilli [redacted]

Service Manager – Governance [redacted]

Legal Services [redacted]

East Lothian Council [redacted]

John Muir House

Haddington

EH41 3HA

[redacted] 22 April 2024

Dear Mr. Grilli

**MUSSELBURGH FLOOD PROTECTION SCHEME**

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

I am a local resident who has visited Musselburgh, the lower reaches of the River Esk, and Levenhall Links and seawall areas over many decades to walk and birdwatch. I am concerned by the apparent failure of the proposals to properly recognise, protect or enhance the area's internationally important bird populations, and the failure to recognise and provide for the enormous amenity benefit and connection to nature offered by wildlife watching and relaxing in the company of wild nature, at Musselburgh.

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

<u>Inadequacy of the EIA Report's Ornithology Baseline</u>

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

It is therefore essential that baseline bird survey data are properly presented. This entails that the distribution and abundance of qualifying features of the SSSI, SPAs and Ramsar site should be mapped to species level, and abundance of each species shown for each survey area, along with the key areas for roosting and foraging of those species. Without this information, the EIA lacks the necessary detail to allow consultees to judge whether the applicant's assessment of impacts from the Scheme is correct or even reasonable. Neither can consultees judge whether

proposed mitigation measures are adequate, nor whether the identification of residual impacts on birds is reliable.

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

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

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

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

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

[3] For example, see C.6.3 and Box C. 6. Practice .1. in the reference cited in Footnote 1.

adequately assessed. Whilst I see that in Section 7.3.3 of the EIA it is stated that the desk-based assessment includes data responses from organisations including the BTO, detailed WeBS data are not provided. The reference to WeBS data is limited to total species counts (in the EIA Section 7.5.6.1 'Desk-study and preliminary ecological appraisal'). This states:-

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

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

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

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

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

In addition to all of the above problems, the bird survey data on which the Scheme's EIA Report depends, contains anomalies, with some apparent mis-identifications. The inclusion of these records undermines confidence in the reliability of bird (and other) survey work carried out for the EIA Report, and in the rigour of the quality assurance processes that have been applied during data collection and preparation of the EIA Report. Specific examples include records of Stone-curlew, Water Pipit, breeding Twite breeding, and "flyover" Wood Warbler (Appendix 7.4). Based on over 60 years of data held by the SOC, these records require verification. Such doubts over the reliability of the survey data are critical, given the conservation importance of qualifying features of the Firth of Forth SSSI, SPAs and Ramsar sites and Outer Forth and St Andrews Bay Complex SPA in such proximity and overlap with the Scheme. It also underscores the importance of consultation with bodies such as the SOC and BTO to ensure that pre-existing data for the Scheme area are obtained, adequately used to aid data validation and quality assurance, and properly integrated into baseline data.

One further concern over the baseline survey surveys is the validity of the 'through the tide counts' which coincided with the construction activity for the new lagoons between 2021 to

June 2023. Given that the EIA Report acknowledges that construction traffic along the seawall will cause disturbance to birds (including qualifying features of the Firth of Forth SSSI, SPA and Ramsar site), evidently the results from these surveys were not representative whilst lagoon construction proceeded. NatureScot guidance on bird surveys clearly highlights the principle that surveys should not take place where there is disturbance that may change the abundance, distribution or behaviour of birds within the survey area[4]. This precaution has not been followed therefore, and this further undermines the reliance that can be placed on a significant proportion of bird survey data used in the EIA Report. I understand, however, that bird surveys are still being carried out, so these un-impacted additional data should be published as part of the submission of Further Environmental Information and the HRA.

For all these reasons, the baseline survey data in the EIA in its current form is not fit for purpose. It needs to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report.

Failure to Identify and Assess Habitat Loss from the Scheme

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

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

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

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

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

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

*1. That the Scheme will achieve as a minimum a neutral impact on the environment.*

*2. To ensure that the Scheme includes appropriate catchment and natural flood management (NFM) measures.*

*3. To ensure that the Scheme considers the impact of climate change and includes appropriate provisions to mitigate any impact.*

*4. To ensure that the Scheme considers in full, and includes for any appropriate measures, to protect the Firth of Forth and its protected statuses.*

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

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

<u>Failure to Appropriately Identify Plans and Projects to Consider for the Cumulative Impact Assessment</u>

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

The cumulative assessment needs to encompass developments that have significant potential to impact key ecological receptors. The potential for cumulative/in combination impacts is determined by impact pathways, not by arbitrary thresholds such as development size or distance from the Scheme (neither of which have any regulatory basis or reflect CIEEM guidance)[5]. Movement of birds around the Firth of Forth SPA/Ramsar site have been relatively well studied, and this information should be used and referred to to help determine potential

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

impact pathways, and thereby the plans and projects that need to be taken account of in the cumulative/in combination assessment. It is essential that this impact/pathway/receptor approach is adopted in the HRA's 'in combination' assessment, if made available to consultees, or otherwise through the submission of Further Environmental Information. I object to the Scheme until this deficiency is rectified.

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

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

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

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

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

I therefore object to the Scheme on the grounds that the best available scientific evidence has not been used, and neither has an evidence-based approach been used as the basis for reaching conclusions in the EIA report.

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

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

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

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

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

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

I therefore object to the Scheme on the grounds that an evidence-based approach has not been used as the basis for reaching conclusions in the EIA report.

<u>Disturbance to Birds During the Scheme's Operational Phase</u>

Related to Sections 7.6.3.1.1, 7.6.3.1.2 and 7. 6.3.1.3, the EIA Report notes that:-

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

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

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

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

Again, I therefore object to the Scheme on the grounds that an evidence-based approach has not been used as the basis for reaching conclusions in the EIA report.

Impacts on Recreational Amenity and Connection to Nature over the Construction Period

Musselburgh is one of the most visited birdwatching sites in Scotland (based on the number of referrals to the Musselburgh entry on the SOC's Where to Watch Birds in Scotland' mobile app), enjoyed thousands of visitors every year. Levenhall Links has twice been the venue for Scotland's Birdfair, attracting several thousand visitors over each Birdfair weekend form a wide catchment area. This tourism and amenity value of the Scheme area for birdwatching and broader connection to nature is not given recognition in the EIA Report, and as a result there is insufficient attention given to mitigating disruption to this activity. This is significant because, as noted in EIA Report Section 4.7.3 'Sequencing of construction work', the Scheme's construction phase could take a period of five to ten years, imposing long-term damage to the area's use and reputation as visitor attraction for nature connection and wildlife watching.

I therefore object to the Scheme due to the failure of the EIA Report to account for these impacts of the development.

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

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

[9] Presumably these estimates are available from the business case for use of public money on the Musselburgh Active Travel Network.

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

Please acknowledge receipt of my letter of objection, in writing, and I would welcome advice as to next steps and timescales.

Yours sincerely

**From:** [redacted]
**Sent:** 22 April 2024 21:48
**To:** Musselburgh Flood Protection Objections
**Subject:** (0293 [redacted] Fwd: Musselburgh Flood Protection - Objection letter
**Attachments:** Objection to MFPS 170424 [redacted]

**Categories:** [redacted]

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Dear ELC

Can you please send acknowledgement of receipt of my objection letter.

Thanks [redacted]

---------- Forwarded message ---------
From: [redacted]
Date: Fri, Apr 19, 2024 at 12:14 PM
Subject: Musselburgh Flood Protection - Objection letter
To: <mfpsobjections@eastlothian.gov.uk>

Dear East Lothian Council,
I have attached my objection to the Musselburgh Flood Protection Scheme.
I look forward to receiving acknowledgement of my letter and a detailed response in due course.
Regards,
[redacted]

[redacted]

17th 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 publish Musselburgh Flood Protection Scheme.

I am a resident of Musselburgh and I don't believe that the flood protection plan, which is proposed, is in the best interests of the town, environment, residents or economy.

I strongly object to the published scheme because:

1. I don't believe that the consultation has been designed well enough to inform the lay public (and councillors) of the true details of the plan. Documentation and plans are complex, misleading and do not give an accurate vision of how the flood protection scheme will look, the disruption it will cause and the overarching need for this. There should have been an option for town residents to vote on whether they wanted the flood protection plan proposed. Consultations were not advertised well and available times could have been considered better to allow everyone to attend.
2. Over £130m has been allocated to this project, over £50m to flood protection. These costs are likely to rise, and there is no transparency on how this budget is allocated/broken down. I have a real concern that other Council services are being under-funded due to this project. To name a few elderly care homes have closed, Brunton Hall repairs on hold/stopped, community initiatives reliant on donations, drain unblocking (which is the cause of most of the town's flooding), while contractors reap the benefits of uncapped funding. Priorities are worryingly misplaced, and the cost to the taxpayer is appalling.
3. The impact on wildlife and nature is a real concern. Many trees will be cut down (again no transparency of this on the plans) – trees that have existed for many years and provide natural flood protection (as well as grass). Wildlife is abundant in Musselburgh, especially on the river. We need to protect and nurture our wildlife and I'm not sure how the birds will adapt to having no direct access to the riverside banks to feed, how they will cope with the excessive and disruptive building works and the pollution this plan will create.

4. The Active Travel Plan should not to connected to this project. Part of the Active Travel Plan has been refused planning permission so by that fact, the whole proposal should be re-costed and alternative plans considered.
5. The benefit to human health and well-being should not be underestimated. [redacted] wheelchair users who will not be able to see the river now. This project has not consideration social well being of town users and residents. In this time when poor mental health is at an all-time high, it's absolutely necessary that these types of proposals consider the social and health aspects of the residents and visitors.
6. The alternative: natural flood protection management has not been investigated further. Other towns have successfully implemented natural flood protection so this would be the best route to consider and ELC obviously have funding to investigate this properly.
7. The disruption to the town, during the implementation of the flood protection, will be devastating to its people, wildlife and businesses. There has been no clear answer on where the machinery, temporary offices, building sites etc will be placed and how this will affect services, access to the river, paths, seafront etc.

Musselburgh is a conservation area which has been completely ignored by ELC.

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

Yours faithfully,

[redacted]

[redacted]

**Subject:** (0294) Musselburgh Flood Protection Scheme
**Sent:** 22/04/2024, 21:49:19
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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**Flag Status:** Completed

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22nd April 2024

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

Dear Legal Services

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

1. Bias - consultants have marked their own homework. Considering the absence of peer review of the Scheme, and further considering that the council have opted, erroneously in my view, not to install an independent assessing team within the planning department, it stands to reason that the consultants marking their own work raises many objectionable questions that have not been answered and must be answered.
2. Escalating costs at a time when council have declared a financial crisis will put pressure on other services due to their 20% liability of all costs.
3. Loss of trees. The consultants are an experienced firm of engineers with knowledge and access to information. ELC likewise have the means to consult experts and arborist experts. To that end, an examination of the presentation information, points to conditions that would almost certainly lead to the death of trees, such as those very close proximity of heavy plant adjacent or over the roots of tree, and formation of swales at/under the roots of tree at Eskside East for example. Therefore both the consultants and the council know with undoubted certainty which trees are very likely to perish during the formation of the flood scheme. To not demonstrate that clearly to the public is both a denial of information and manipulation of the townsfolk's empathy for trees, giving the impression that many trees may be saved, where the opposite is true.
4. No biodiversity net gain has been evidenced.
5. Removal of natural flood management before council vote on scheme in January 2024, and before petition was heard, not only was undemocratic but more importantly in breach of the 2009 Act's requirements.
6. Measures to avoid, control, manage and mitigate flood risk should also not increase flood risk elsewhere. There has been no assessment of the impact or risk of MFPS on other coastal area ie Portobello.
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.
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.

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]
E-mail [redacted]

**Subject:** (0295) MUSSELBURGH FLOOD PROTECTION SCHEME 2024
**Sent:** 22/04/2024, 21:54:34
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections
**Attachments:** [redacted] ELC DECISION TO MOVE TO APPROVALS PROCESS WITHOUT FULL INFORMATION.docx

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**Categories:** [redacted]

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Please find attached Objection [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 Protection scheme as it does not provide adequate remedial improvements to the existing drainage infrastructure in Musselburgh.**

**22.04.2024**

Outline design was approved despite [redacted] of Jacobs advising the ELC on 23rd January 2024 that most of the drainage in the town of Musselburgh was part of a combined system, with the Council being responsible for the gullies and Scottish Water being responsible for the sewers. He noted that during storms, the sewers become overwhelmed and can't take all the water from the drains, which causes the water to back up and go into the river or the out at the coast. He stated that this could not be addressed as part of the Scheme.

With no provision within the proposed MFPS for a significant upgrade to the existing drains or upgrading the sewer system, the proposed scheme is just a sticking plaster and not a remedy for the flooding issues linked to Musselburgh.

Rather, the proposed MFPS poses a significant risk that water and sewage may be trapped behind the proposed flood defence walls posing a significant risk of foul water gaining access to homes and businesses near the proposed walls. The proposals to include pumping stations within the schemes design relies on a mechanical engineered solution that is a sticking plaster rather than a proper solution and that is a solution that will require ongoing maintenance & replacement in future

[redacted] advised at the meeting on the 23rd January 2024 that the capital costs would be funded by the Scottish Government (80%) East Lothian Council and the Council (20%), but that ongoing maintenance costs would be met by the Council. He suggested that a less expensive capital cost may result in greater ongoing maintenance costs to the Council, so it was in the Council's interest to invest in a more robust scheme. He added that future funding opportunities were unclear, and the Council should therefore make a decision based on current data.

I therefore object to the proposed MFPS as it runs the risk of exacerbating Musselburghs flood risk rather than resolving it.

Yours sincerely

[redacted]

Carlo Grilli [redacted]

Service Manager – Governance [redacted]

Legal Services [redacted]

East Lothian Council [redacted]

John Muir House

Haddington

EH41 3HA

[redacted]

22 April 2024

Dear Mr. Grilli,

I write to object to the recently published Musselburgh Flood Protection Scheme.

I am both a local bird watcher who has visited Musselburgh Lagoons since the 1970s, and an editor of the journal [redacted]. During a period dominated by the relentless loss of biodiversity, I have watched the development of the area into an internationally renowned and protected site, attracting visitors not just from Scotland, but from the rest of the UK, Europe and beyond. Sadly, the council's Scheme can only detract from that significance.

Particularly concerning is the failure of the Environmental Impact Assessment (EIA) Report commissioned by East Lothian Council to meet the requirements set out in EIA guidance. I draw your attention the East Lothian Biodiversity Office who requested in their Scoping Report (see ELC on 28 November 2023, EIA Appendix C3.2) that '*The field surveys should be informed by a data search from ... useful data (that) may be available from sources including the … British Trust for Ornithology and Scottish Ornithologists' Club'*.

However, there was no request for data from the Local Bird Recorder of the Lothian Branch of the Scottish Ornithologists' Club (SOC) to obtain relevant bird records for the area. Hence the EIA fails to incorporate into its ornithology baseline any of the comprehensive pre-existing bird data for the Scheme area. In consequence, the EIA ornithology baseline lacks details regarding species presence, abundance, distribution and behavioural patterns to adequately inform its assessment (including of cumulative impacts), mitigation design and proposals for enhancement. This is particularly the case for the assessments of impacts from the Scheme's construction compounds, the seawall improvement works, and the two sections of the Musselburgh Active Travel Network (ATN).

Similarly absent are any in-depth, species-specific data from the British Trust for Ornithology (BTO) whose Wetland Bird Surveys (WeBS) have been running for decades and provide important long-term insights into species composition and abundance of waders and wildfowl of key sites, and long-term population trends.

It is crucial that baseline bird survey data are properly presented, specifically that the distribution and abundance of qualifying features of the SSSI, SPAs and Ramsar site at least are mapped to species level and their abundance shown for each survey area (notably through the tide count survey areas), along with the key areas for roosting and foraging of those species. Without this information, the EIA lacks the necessary detail to enable consultees to judge whether or not the applicant's assessment of impacts from the Scheme is correct. The EIA in its current form being deficient, I object to the Scheme because of the inadequate baseline bird data provided.

Equally worrying is the failure of the EIA Report to identify and assess habitat loss from the Scheme, especially the loss of shoreline and inter-tidal habitats over its operational life. Such losses will occur directly from the construction of hard defence structures along the coast where these are currently absent or limited, through what is known as 'coastal squeeze'. The existence of this operational impact is not even mentioned in the EIA Report Biodiversity chapter. This is of particular concern since these habitat losses will impact the qualifying features of the Firth of Forth SSSI, SPA or Ramsar Site (and the conservation objectives of the latter two designations).

This omission is contrary to guidance and good practice, and further reduces the reliance that can be placed on the assessment or effectiveness of mitigation proposed. I would remind you that East Lothian Council, which commissioned the EIA, is duty-bound to protect and enhance biodiversity and cannot do so without detailed baseline EIA bird data from which impacts on birds or other wildlife can be assessed, mitigation designed, and residual impacts identified: see Nature Conservation (Scotland) Act 2004 and National Planning Framework 4 (NPF4).

Musselburgh is one of the most popular birdwatching sites in Scotland, but the tourism and amenity value of the area for birdwatching is not recognised in the EIA Report. As a result, insufficient attention is given to mitigating disruption to this activity. This is significant because the Scheme's construction phase could take five to ten years, imposing long-term damage to the area's use and reputation as a visitor attraction. On a trip to Andalusia [redacted], I encountered a group of Spanish birdwatchers planning to fly to Edinburgh specifically to visit the Musselburgh site.

Please acknowledge your receipt of this letter of objection, in writing. Please also advise me of any further steps and projected timescales.

Yours sincerely,

[redacted]

**Subject:** (0297) Musselburgh Flood Protection Scheme
**Sent:** 22/04/2024, 21:55:16
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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**Follow Up Flag:** Follow up
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**Categories:** [redacted]

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

I am writing in respect of the consultation on the Musselburgh Flood protection Scheme 2024 in accordance with the Flood Management (Scotland) Act 2009. In accordance with the requirements my name is [redacted] and my address is [redacted]. My husband and I own our property. This submission is made as a local resident and also an affected land owner.

The following is the statement of the reasons for objection.

My family and I are Musselburgh residents who have lived in the town for a long time, my husband for over [redacted] years and me for over [redacted] years. We have lived near the river for the majority of that time and have been fully aware of the river and the sea during that time. We are aware that there have been a number of occasions where the river has topped the current walls alongside it, we have only ever been provided with sandbags on two occasions. On no occasion has the water actually come near to flooding our property, at least from the river, it has however nearly been flooded due to blocked drains. The focus from the council on the river flooding seems to be along the path by the Loretto playing fields which have flooded with the spring tides for all the years we've been in Musselburgh and coincidentally effects no one.

However we do appreciate the implications of climate change and what that may mean for flooding in Musselburgh.

We wish to raise a number of concerns as follows:

1. The scheme seems to us to be over engineered. It is not clear why the focus has been on permanent barriers rather than moveable ones, which would have less impact on the residents and wildlife. We understand that on our section of Eskside West- between the electric and store bridge the barrier will be an engineering mound. No indication has been provided in the documentation to show that removable barriers – that are present there but just come up when required, have been considered.
The alternative of a small, low level, wall along this stretch of the Esk has not been considered and I do not understand why. This would be a far less intrusive approach.
2. It seems as if the project has to a certain extent been high-jacked by the active town process who seem to have motives which are not in the best interests of the town as a whole – they seem to operate as a single agenda. There are far too many paths and cycle ways proposed. We understand that some are required but what is proposed is not effective use of money, it is excessive. It is also very intrusive on those living near by. There is no need for the bridge at Goose Green this is over designing. It is unclear what

purpose this would serve and what cost benefit it provides. It would, in our view, be far better to look to tackle the traffic flow issues along with the much needed investment in social infrastructure in Musselburgh including schools and health care facilities. The spending of money as part of the process seems to have been a priority and no cost benefit analysis has been presented.

3.

Eskside West already has 2 pavements – they work very well and are rarely crowded and there is no need for a third pavement along the top of the engineered bund which is proposed. It is just not proportionate. This will result in a lose of privacy of our home and we have not been able to find any residential visual impact assessment which takes account of our property.

4.

It remains unclear as to why the council are not looking at flooding in the town in a holistic manner. The drains and the flooding which results in raw sewage on the areas around Eskside West has been an ongoing issue and it remains unclear why nothing is done about this by the Council.

5.

We have not been able to find information about the long term maintenance of the flood infrastructure. This is critical. The council have failed to maintain, or ensured the maintenance of, the current river walls or the coastal walls. This is a matter which requires careful consideration and must be committed to.

6.

It is unclear how the proposed development has been assessed against National Planning Framework 4. The approach in NPF 4 is clear that a holistic approach is required to climate change and the nature emergency. There is no evidence that the proposed flood development would enhance biodiversity and leave the site in a demonstrably better situation, as all EIA developments are required to.

7. It is not clear what attention has been paid to the significant disruption that will be caused by the proposed defences. the references in the EIA Report pay scant regard to it. The impact of the construction on those living nearby must be properly considered.

Please provide confirmation of the receipt of this correspondence

[redacted]

**Subject:** (0298) Musselburgh Flood Protection Scheme Objection
**Sent:** 22/04/2024, 22:00:24
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections

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22nd April 2024

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

Dear Sir / Legal Services

I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024. I keep my horse in livery within Dalkeith park and regularly ride on the bridle path that will be decimated by the construction of the debris catcher across the Esk on the west side of the overbridge that carries the A1 dual carriageway and the works to construct access roads to the debris catcher.
The following are my reasons for objecting the scheme:

1) Disturbance: The construction traffic and all maintenance vehicles will be using a narrow quiet road that I use to ride my horse on for my mental and physical health and wellbeing.

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

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

4) Environmental Impact: The construction of the access road for the debris catcher will result in the loss of grazing land. The construction and extraction process will disturb and worry the livestock. It will damage and destabilise the fragile high river bank path resulting in landslips. Hundreds of trees and the natural path will need to be destroyed in order to build a road wide enough for the construction and debris extraction vehicles. The destruction of trees and natural habitat will be damaging to the wildlife in this location. There are deer, foxes, hare, buzzards, bats, squirrels, possibly badgers and other creatures too numerous to list in this woodland. In this world of climate change activists we are supposed to be saving trees not destroying them for a poorly designed flood protection plan that is likely to cause more flooding and environmental damage than if no action was taken at all.

5) Unnecessary cost: I really object to tax payer money being wasted to create a new access road to the Esk when there is already a fit for purpose, flatter tarmac access road from Cowpits Road. The proposed site of the debris catcher currently has no access for vehicles of any sort. It is an unsurfaced rural path and totally unsuitable for heavy vehicles. The plans show the access road will need to be constructed over a soft grass livestock field, then through an ancient and well established woodland, down a steep fragile river path that is not robust enough to support heavy construction vehicles and subsequent heavy machinery and vehicles needed to clear the debris catcher. The entire river banking would need to be reinforced before it could be used for this purpose. There is already an asphalt access road to the Esk in Grove which has easy access from Cowpits Road. Therefore a cheaper and less damaging option would be to place the debris catcher to the east of the A1 dual carriageway over bridge, in the vicinity of the

railway over bridge and use the existing asphalt access track/road along the Grove to construct the debris catcher and subsequent debris removal. However removing any type of debris catcher from the scheme is the best option because wherever one is constructed, there will be an unacceptable cost and it will cause flooding in the areas upstream where there was previously none. It simply shifts the problem and does not provide a solution.

6) Lack of Consultation: There has been no attempt to communicate the proposal for the access road and debris catcher to those who access the Dalkeith Park Estate from the Monkton Gate from Old Craighall. I myself use the Monkton gate and have only just heard of the proposed plans. Many of the people who keep their horses at the proposed site don't live within East Lothian and won't have been informed via any other means, myself included.

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

Regards,

[redacted]

[redacted]

**Subject:** (0299 NO ADDRESS) Objection to flood scheme from a resident that loves her honest toun.
**Sent:** 22/04/2024, 22:00:45
**From:** [redacted]
**To:** Musselburgh Flood Protection Objections; Grilli, Carlo

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

**Categories:** NO ADDRESS

Some people who received this message don't often get email from [redacted] Learn why this is important

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

To Carlo Grilli and others it may concern

I would like to strongly object to the current plans drawn up for the flood prevention scheme in musselburgh.

I was born in musselburgh [redacted] and moved back over a year ago to newbigging. I can walk to the river mouth in 3 minutes. One of the reasons I (and many other people i have met since) have moved to musselburgh is the natural beauty of the town, the river, the beach, the trees and green areas.

Musselburgh is a special place to me but I want to be more than emotive in my objection and would like to state facts as it currently feels like the current plans are being pushed through without taking into account the huge amounts of objections, lack of public information and obvious problems.

Having seen the wall that was built for similar measures in Hawick, i am genuinely upset to think something similar might happen in musselburgh, surely we have more advanced ideas than a big concrete wall.

facts for my objection are:

The results presented in the EIA report from surveys of shoreline and coastal birds are not detailed enough to provide assessment of the impact of the scheme on the internationally and nationally designated sites around Musselburgh.

The scheme is currently costed at £132m in total, including £53m for the flood protection part. East Lothian Council is incredibly low on money as i believe it, refuse collection halved, i have neighbours that have been living in council houses with black mold for 2 years, 132m could do so much for the area, more affordable schemes should be looked into.

There are no cost breakdowns in the public domain, I pay council tax and would like to see the detailed breakdown as a matter of freedom of information.

The actual Height of the walls has been proven to be much higher than the general public were led to believe, the public should be given accurate data on this.

There are areas in much greater risk of flooding in east lothian, i feel like musselburgh is being targeted

I live next to [redacted] as soon as graffiti is painted over it is graffitied on again, the wall will be a blank canvas for people to write on, what are the current statistics in musselburgh for council graffiti removal?

If you lived in musselburgh you would never accept the scheme as is, it will destroy our beautiful town, cause permanent harm to the ecosystem and wildlife that call the river and estuary home and make it a much less desirable destination for business, residents and tourists.

Carlo Grilli [redacted]

Service Manager – Governance [redacted]

Legal Services [redacted]

East Lothian Council

John Muir House

Haddington

EH41 3HA

[redacted] 22/04/2024

Dear Mr. Grilli,

I am writing to object to the recently published Musselburgh Flood Protection Scheme. I am a resident and birdwatcher living in Edinburgh [redacted]. I visit Musselburgh every week to enjoy the spectacular birdlife of this area. I have recently learned about the flood protection scheme and I was very disappointed to see the EIA report and realise that not enough work and consideration has been put to ensure the least amount of harm to the local birdlife. This is particularly upsetting since the proposed works are adjacent and some even within a Special Protected Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI).

I sincerely hope you rethink this. This project would damage a vital area for wildlife and for thousands of people like myself who visit to enjoy its wonders.

Yours Faithfully,

[redacted]