

## Members' Library Service Request Form

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Document Title	Musselburgh Flood Protection Scheme MLS report - Appendix A.11

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Additional information:

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

For Office Use Only:	
Library Reference	108/24
Date Received	18/10/24
Bulletin	Oct 24

**Subject:** (0336) Objection Letter to Musselburgh Flood Protection Scheme Proposals  
**Sent:** 23/04/2024, 10:36:45  
**From:** [Redacted]  
**To:** Musselburgh Flood Protection Objections  
**Attachments:** [Objection Letter 16-4.docx](#)

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

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Please find my objection below. I have also included it as an attachment.

Thank you  
[Redacted]

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

16<sup>th</sup> March 2024

Mr C Grilli  
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. Cost**

East Lothian Council (and the UK at large) are in financial crisis. Our council tax keeps rising and 20% the final cost of this scheme is to be found by East Lothian Council. Community buildings, in particular Musselburgh Town Hall, Stoneyhill Community Centre, The Hollies and Eskgreen Care home have been left to rot whilst this scheme forges ahead.

There are no ongoing costs factored in at all for maintenance and upkeep of any new walls, paths or bridges.

**2. Level of Risk**

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.

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.

Choice of year 2100 should be amended as we cannot accurately predict sea level rise that far. It could be less, or more!

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)

### **The current plan of narrowing the river corridor will significantly increase the risk of flood.**

Measures to avoid, control, manage and mitigate flood risk should also not increase flood risk elsewhere. There has been no assessment of the impact or risk of MFPS on other coastal areas either side of Musselburgh at Prestonpans/Cockenzie or Portobello.

### **3. Loss of Mature Trees and Natural Landscape**

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 in 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.

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.

### **4. Detrimental to Mental Health**

The riverbank and seafront are what make Musselburgh the beautiful town it is. I and generations of my family before me have enjoyed and cared for this town. Notwithstanding the monstrous concrete infrastructure planned, the building works, dust, noise and loss of public spaces which will have to be commandeered as building sites is utterly unacceptable.

As someone who lives directly next to the river this will be my reality for the years it takes to build. 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.

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

### **5. Natural Flood Management has not been properly explored**

Our councillors' unanimous exclusion of Natural Flood Management, highlights a lack of willingness to deploy nature based solutions that fly 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).

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

There is no beach nourishment plan or any budget for this.

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. Musselburgh Active Toun Travel and The Flood Scheme should be considered separately**

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.

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.

## **7. Rejection of The Proposed Goosegreen Bridge**

It is a long known fact that when building at Burgh Gate the houses at the end of Goosegreen Crescent suffered subsidence. The householders have been left with serious structural issues and no one has been allowed to build there since. Why then is another enormous bridge being planned? This "statement 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.

## **8. No Independent Analysis of Impact**

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.

The scheme will have a negative impact on tourism to Musselburgh.

## **9. Health and Safety**

The walls are of such a height that people will not feel safe walking along the river, particularly in the dark. At Newfield the path will be narrow with no escape should anyone be attacked. Musselburgh now has a very significant drug and antisocial behaviour problem and this will only serve to exacerbate it. Gangs of youths already use these paths at night to evade police, but they will now be hidden behind walls.

Children have played on the river over the centuries, they will continue to do so. If they climb on these walls and high walkways and fall in, how will they ever get out again? I feel genuinely concerned about this aspect.

## **10. Bad Communication/Consultation Process**

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. The exhibition held in June 2023 was dimly lit and generally communication between the consultants and the public has been lacking. The several professionally designed leaflets that have been delivered to every household in Musselburgh held no meaningful information to help people understand what was being proposed. The public meetings were alarmist and there was no real scope for "consultation".

## **11. Personal Financial Loss**

As someone who lives directly next to the river the impact of this project will have a detrimental effect on my ability to sell my house. Firstly in the years it takes to construct I will be unable to sell. Secondly once it is constructed (in its present form) no one will want to live facing such an edifice with loss of river view, trees and wildlife.

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

## **12. Loss of Heritage and Tradition**

The building of walls will have a negative impact on the traditions and heritage of Musselburgh. The Riding of The Marches is an ancient tradition which sees the boundaries of our town marked every 21 years. The the river as an integral part of this and the festival's importance cannot be understated. Its historical significance must be taken into consideration. The Honest Toun Association's Musselburgh Festival was conceived in the 1920's to mirror this festival annually between Riding of The Marches years and is one of the highlights of Musselburgh's society and culture. The fording of the Esk, the duck race and the harbour festival will all suffer if this scheme goes ahead.

Please take these points into consideration. I do not wish to be contacted in person by any member of the project team or East Lothian Council. I insist all communication with me going forward should be via email or by post.

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

Yours Faithfully,



**Subject:** (0337) Musselburgh Flood Protection Scheme objection

**Sent:** 23/04/2024, 10:38:42

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

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

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

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

Dear xxx

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

I have lived in Musselburgh for over [REDACTED] of the [REDACTED] [REDACTED] have witnessed, at firsthand, occasions when the river has burst its banks and the particular circumstances which have lead up to this.

My grounds for objection firstly hinge on an inadequate assessment of the nature-based solutions which could mitigate the effects of flooding in Musselburgh in the future. There are many, many examples in the UK and further afield where these have been successful – from the introduction of beavers upstream on the Esk to the planting of seagrass and oyster beds at the shore. The effects of these need to be appraised fully. By comparison with what is proposed, these are relatively inexpensive to introduce.

Secondly, the proposed Flood Protection Scheme places an unacceptable environmental burden on this area – concrete, new bridges, walls etc. which are eye-wateringly expensive as well as introducing a whole range of their own problems, itemised in detail by other objectors.

Please pause the scheme and fully explore the science surrounding other options.

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

Yours sincerely,  
[REDACTED]

**From:** [REDACTED]  
**Sent:** 23 April 2024 10:39  
**To:** Musselburgh Flood Protection Objections  
**Subject:** (0338 DUPLICATE OF 0255 & 0324) Fwd: Objection letter  
**Attachments:** Objection to Flood Defense Scheme .docx  
**Categories:** Added to excel spreadsheet, [REDACTED]

You don't often get email from [REDACTED] [Learn why this is important](#)

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Last two emails I sent please could I have  
One this time.  
Thanks

[REDACTED]  
Sent from my iPhone

Begin forwarded message:

**From:** [REDACTED]  
**Date:** 23 April 2024 at 09:23:03 BST  
**To:** mfpsobjections@eastlothian.gov.uk  
**Subject:** Fwd: Objection letter

Sent from my iPhone

Begin forwarded message:

**From:** [REDACTED]  
**Date:** 22 April 2024 at 17:38:42 BST  
**To:** mfpsobjections@eastlothian.gov.uk  
**Subject:** Objection letter

Please find my objection letter attached  
Thank you

[REDACTED]  
Sent from my iPhone



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 [REDACTED] 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





trying to make positive changes in the town if we are forced to live in a concrete graveyard? It is a slap in the face to everyone that cares for the town and continues to try to make it better.

THIRD OBJECTION: The impact on wildlife, including the colonies of geese and swans that live on the river, as well as loss of biodiversity from the devastating removal of mature trees is a huge concern and seems to be an extremely counterintuitive move when it is known that the presence of trees encourage drainage. As much as possible should be done to not only retain and conserve existing biodiversity, but to encourage and increase it. Nature based solutions should be at the forefront of this scheme, but have been pushed aside in favour of completely unnecessary and over the top plans. No biodiversity net gain has been evidenced.

FOURTH OBJECTION: Concrete walls will become targets for graffiti and the visual impact of this will have a further detrimental impact on the area. Who is to be responsible for the cleaning of this, and what will the ongoing cost of this be? No maintenance budget has been factored into the scheme.

FIFTH OBJECTION: Disruption to local services and increased noise and traffic pollution. A long term negative effect on local businesses, increased traffic, roadworks and road closures (in a town already struggling with the sheer volume of traffic it sees daily) leading to a decrease in visitors to the town and inconveniencing local residents for in excess of five years.

SIXTH OBJECTION: The sheer cost of the scheme is absolutely atrocious and has spiralled over the years. Tax payers money would be far better spent on essential services needed now, rather than on something based on the possibility of flooding in years to come. We have families forced to access food banks, care homes closing down, services being cut across the board, I'd rather see tax payers money going to alleviate the severe deficit in these types of essential services than on walls for a "might happen in the future" situation. As above regarding mental health, the scheme will create a higher need for services that are already extremely stretched. The knock on effects of the scheme will be far reaching in their negativity.

SEVENTH OBJECTION: Throughout the scheme the consultants have not been subject to challenge or adequate scrutiny and have been allowed to write their own Environmental Impact Report. This absolutely cannot be ethical as bias will definitely have been a factor.

EIGHTH OBJECTION: The removal of natural flood management before the council vote on the scheme in January 2024, and before petition was heard, was not only undemocratic but more importantly in breach of the 2009 Act's requirements.

NINTH OBJECTION: 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.

TENTH OBJECTION: 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).

ELEVENTH OBJECTION: Prematurity of wall along the coast due to lack of Coastal Change Adaptation Plan.

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

THIRTEENTH OBJECTION: There is no beach nourishment plan nor budget for this.

FOURTEEN OBJECTION: 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.

FIFTEENTH OBJECTION: 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.

SIXTEENTH OBJECTION: 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).

SEVENTEENTH OBJECTION: 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.

EIGHTEENTH OBJECTION: 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.

NINETEENTH OBJECTION: 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.

TWENTIETH OBJECTION: 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. I have reported several blocked drains over the years but still see the same ones causing problems any time we have heavy rainfall. I feel like this is a huge issue that needs to be dealt with and should be part of any flood protection scheme. I asked Conor Price about this but was told it wasn't part of the scheme, which I found very strange as it seems like a very obvious factor within the big picture.

TWENTYFIRST OBJECTION: 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.

TWENTYSECOND OBJECTION: 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.

TWENTYTHIRD OBJECTION: I have an interest in the land affected by the scheme and scheme operations (including but not limited to noise and pollution from construction traffic) at Fisherrow Links and Fisherrow coast. I use this regularly to exercise and socialise. A coastal sea defence with limited access and any scheme compound and scheme works will directly impact my ability to continue to do so and disturb my enjoyment of the land. If the scheme proceeds in its present form without amendments I expect to be compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).

TWENTYFOURTH OBJECTION: The modelling of the scheme being based on the worst -case scenario by selecting the use of the IPCC RCP8.5. Not only does this presume that there will be no reduction in emissions in the future but there is much professional criticism of the use of RCP8.5 and there are many studies which do not support this data and modelling.

TWENTYFIFTH OBJECTION: East Lothian Council declaring a climate emergency and claiming they are working towards a net zero policy whilst at the same time selecting the RCP8.5 scenario to base their flood scheme upon, which scenario makes the assumption there will be no reduction in emissions.

TWENTYSIXTH OBJECTION: The commitment to a 100 year commitment to one line of defence only which directly contradicts the 'managed' and 'adaptive ' approach advised by the Scottish Government.

TWENTYSEVENTH OBJECTION: The timing of the statutory approval process being such that East Lothian Council's own Coastal Change Adaptation Plan is excluded from consideration. The lack of discussion of alternatives and independent technical scrutiny is not acceptable.

TWENTYEIGHTH OBJECTION: The loss of 0.33 hectare of ancient woodland is unacceptable.

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

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



**From:** Grilli, Carlo  
**Sent:** 23 April 2024 11:10  
**To:** Musselburgh Flood Protection Objections  
**Cc:** [REDACTED]  
**Subject:** (0340 [REDACTED] FW: MFPS objection: [REDACTED]  
**Attachments:** mfps objections april 24 final.pdf  
**Categories:** [REDACTED], Added to excel spreadsheet

Thank you for your engagement with the Musselburgh Flood Protection Scheme. This email is to confirm that your correspondence has been received and has now been forwarded to the objection inbox.

Under the Flood Risk Management (Scotland) Act 2009, the notification of the Musselburgh Flood Protection Scheme commences on Thursday 21st March 2024. Objections can be made about the proposed scheme until Wednesday 24th April 2024.

All correspondence received in connection with the proposed scheme will remain unread until the end of this objection period.

Kind Regards,

East Lothian Council

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**From:** [REDACTED]  
**Sent:** Monday, April 22, 2024 7:25 PM  
**To:** Grilli, Carlo [REDACTED]  
**Subject:** Fwd: MFPS objection: [REDACTED]

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**From:** [REDACTED]  
**Subject:** MFPS objection: [REDACTED]  
**Date:** 22 April 2024 at 19:12:04 BST  
**To:** mfpsobjections@eastlothian.gov.uk

[Also attached pdf version.](#)

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

To whom it may concern,

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

I am an interested party given I am the owner of [REDACTED] which [REDACTED] beach to the [REDACTED] 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 [REDACTED]. 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 [REDACTED] 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] 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 [REDACTED] or any aspect of my [REDACTED]. 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 [REDACTED] 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 Town (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]  
[REDACTED]  
[REDACTED]

22 April 2024



[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
22 April 2024

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

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

To whom it may concern

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

I am an interested party given I am the owner of [REDACTED] which [REDACTED] [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 [REDACTED]. I object to this on the grounds that it impacts [REDACTED], security and right to peaceful enjoyment of [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 [REDACTED] 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] [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 Town (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. an 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,

██████████

**From:** Grilli, Carlo  
**Sent:** 23 April 2024 14:19  
**To:** Musselburgh Flood Protection Objections  
**Subject:** (0341 DUPLICATE OF 0024) FW: objection to the recently published Musselburgh Flood Protection Scheme.  
**Attachments:** [REDACTED].docx  
**Categories:** [REDACTED], Added to excel spreadsheet

Attachment now included

---

**From:** Jim Cranston [REDACTED]  
**Sent:** Monday, April 22, 2024 3:44 PM  
**To:** Grilli, Carlo [REDACTED]  
**Subject:** Fwd: objection to the recently published Musselburgh Flood Protection Scheme.

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.

Good Afternoon

Please could I have a recipe for delivery of the Email

Best Regards

[REDACTED]

Sent from [Outlook for iOS](#)

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**From:** [REDACTED]  
**Sent:** Thursday, April 4, 2024 12:38 pm  
**To:** cgrilli@eastlothian.gov.uk <cgrilli@eastlothian.gov.uk>  
**Cc:** [REDACTED]  
**Subject:** objection to the recently published Musselburgh Flood Protection Scheme.

Good Afternoon

Please find letter of objection to the Musselburgh Flood Prevention Scheme

I hope you find this to be in order

Kind Regards

[REDACTED]

*Please note we are registered with quick quotes.*  
Visit us at [REDACTED]





The information in this email is confidential and the contents are not to be disclosed to anyone other than the addressee, except with the authority of [REDACTED]

The opinions expressed within this email represent those of the individual and not necessarily those of [REDACTED]

If received in error please advise the sender and delete from your system.



[Redacted]

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

4<sup>th</sup> April 2024

Dear Sirs

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

[Redacted]  
[Redacted] East Lothian Council has commissioned a report on the coast from Dynamic Coast, but this is not yet available publicly – why and how is the Council making a decision without being open about all the evidence? Why is ELC not in step with the Scottish Government.

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

The engineers appointed to design the project have also been allowed to write the Environmental Impact Assessment (EIA). They carried out an options appraisal that ruled out all alternatives to the current scheme, without those options being made available for public scrutiny or debate. Throughout the scheme the consultants and engineers have not been subject to challenge or adequate scrutiny.

On 23 January 2024, the Council agreed to the scheme progressing, even though they had not had sight of the full EIA, only a ‘non-technical summer

I would ask that a public enquiry is put in place to ask for more transparency in the process Before any agreement is accepted.

Yours Sincerely

[Redacted]

[Redacted]



**Subject:** (0342) RE: Objection to Flood Protection Scheme in Musselburgh  
**Sent:** 23/04/2024, 11:14:49  
**From:** Grilli, Carlo  
**To:** [REDACTED]; Musselburgh Flood Protection Objections

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

Thank you for your engagement with the Musselburgh Flood Protection Scheme. This email is to confirm that your correspondence has been received and has now been forwarded to the objection inbox.

Under the Flood Risk Management (Scotland) Act 2009, the notification of the Musselburgh Flood Protection Scheme commences on Thursday 21st March 2024. Objections can be made about the proposed scheme until Wednesday 24th April 2024.

All correspondence received in connection with the proposed scheme will remain unread until the end of this objection period.

Kind Regards,  
East Lothian Council

**From:** [REDACTED]  
**Sent:** Monday, April 22, 2024 1:23 PM  
**To:** Grilli, Carlo [REDACTED]  
**Subject:** Objection to Flood Protection Scheme in Musselburgh

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[REDACTED]  
[REDACTED]  
[REDACTED]  
22 April 2024

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

[REDACTED]

Dear Carlo Grilli

I am writing to object to the recently published Musselburgh Flood Protection Scheme. As a dog walker living in East Edinburgh, I am often utilising the area of the scheme for leisure and wellbeing, and I am also concerned how much this will cost for taxpayers.

I object to the published scheme because of the impact it will have on general amenity, health and well-being. This project will take 5 years to complete with many people's lives affected and a loss of access to crucial nature spaces. I am not convinced that your evidence confirms an actual risk to property owners and residents.

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.

Yours Faithfully,

Verbal abuse and threatening behaviour is never acceptable. #zerotolerance

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

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

**Please, be nice.**



**BE NICE**  
RESPECT US AS WE RESPECT YOU

**Subject:** (0343) Carlo Grilli Service Manager – Governance Legal Services

**Sent:** 23/04/2024, 11:14:49

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

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

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]

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

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

Dear Carlo Grilli

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

Objection one.

I object to the published scheme because I don't think the amount of concrete landscaping is necessary. I think more nature based solutions need to be planned out and put forward to the residents of Musselburgh rather than being faced with the prospect of concrete walls, planting and work to the sand dunes should be the initial actions. Nature based solutions should be at the forefront of any plans. Destroying habitat should be a last ditch attempt.

Objection two.

As a resident of Musselburgh [REDACTED] I can't imagine not having the green open spaces of the river and sea front for recreational purposes. [REDACTED] I had many days where I could walk out my front door and down the river which gave me the very much needed head space to breathe and helped my mental health. It would be such a loss to everyone to just stare at concrete walls that will no doubt be graffiti covered in no time. I really don't think the mental well being of the locals is been taken into consideration in these plans. It also is detrimental to local businesses because I won't be walking down that way at all if it's a building site.

Objection three.

Choice. I really don't think we've been given a choice. The plans seem to have been drawn up and although there has been public feedback I don't actually think there's been a choice in what's going to be built. I think the people of Musselburgh deserve to have more input in the design choices. Even having 2 or 3 overall plans to choose from put to a local election. Getting the local schools involved in design elements for example so that the children our future residents of Musselburgh can have their say about what they would like to see in recreational areas.

Objection four.

Is it really necessary? The recent bad storms and high tides have shown the water levels high but not high enough to warrant the construction of overly large walls that children and people in wheelchairs won't even be able to see across.

Objection five.

The cost. The cost of these plans is astronomical and quite frankly disgusting when the local services such as GP and dentists don't even have space to see patients. Council/ community buildings and services like the Brunton deserve more funds than this wall that will no doubt, as all these projects do, go over budget!

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.

Yours Faithfully



Sent from [Outlook for Android](#)

**Subject:** (0344 NO ADDRESS) RE: Musselburgh flood protection scheme - objection

**Sent:** 23/04/2024, 11:15:16

**From:** Grilli, Carlo

**To:** [REDACTED]; Musselburgh Flood Protection Objections

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

**Categories:** NO ADDRESS

Thank you for your engagement with the Musselburgh Flood Protection Scheme. This email is to confirm that your correspondence has been received and has now been forwarded to the objection inbox.

Under the Flood Risk Management (Scotland) Act 2009, the notification of the Musselburgh Flood Protection Scheme commences on Thursday 21st March 2024. Objections can be made about the proposed scheme until Wednesday 24th April 2024.

All correspondence received in connection with the proposed scheme will remain unread until the end of this objection period.

Kind Regards,

East Lothian Council

---

**From:** [REDACTED]  
**Sent:** Monday, April 22, 2024 12:26 PM  
**To:** Grilli, Carlo [REDACTED]  
**Subject:** Musselburgh flood protection scheme - objection

You don't often get email from [REDACTED]. [Learn why this is important](#)

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I want to object to the proposal for this scheme.

I am a local resident and [REDACTED]. I feel the proposals would significantly impact the internationally important ( and RAMSAR designated) water bird population at the site and that the EIA attached to the plan is inadequate and does not take account of recent disturbances to the site or the long records of independent monitoring of bird life around the estuary. I think that for this and many other reasons the proposal should be referred to a public enquiry

I d appreciate acknowledgment of my objection and to be updated on developments with the proposal.

Yours sincerely

[REDACTED]

Verbal abuse and threatening behaviour is never acceptable. #zerotolerance

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

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

Please, be nice.





[REDACTED]

---

**From:** Grilli, Carlo  
**Sent:** 23 April 2024 11:16  
**To:** [REDACTED] Musselburgh Flood Protection Objections  
**Subject:** (0345 [REDACTED]) RE: Musselburgh Flood Protection Scheme

**Categories:** [REDACTED]

Thank you for your engagement with the Musselburgh Flood Protection Scheme. This email is to confirm that your correspondence has been received and has now been forwarded to the objection inbox.

Under the Flood Risk Management (Scotland) Act 2009, the notification of the Musselburgh Flood Protection Scheme commences on Thursday 21st March 2024. Objections can be made about the proposed scheme until Wednesday 24th April 2024.

All correspondence received in connection with the proposed scheme will remain unread until the end of this objection period.

Kind Regards,  
East Lothian Council

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

**From:** [REDACTED]  
**Sent:** Monday, April 22, 2024 12:19 PM  
**To:** [REDACTED]  
**Subject:** Musselburgh Flood Protection Scheme

[You don't often get email from [REDACTED]. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

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Sir,

I wish to object to the above scheme. I have no doubt that the proposed measures will do irreparable damage to an internationally important wildlife area visited by thousands every year. The river mouth and intertidal zone east along the sea wall currently supports an abundant and diverse range of wildlife, most notably birds. Claims that the proposed work will not seriously damage these areas cannot be substantiated: I think it is ridiculous, insincere and irresponsible to try and justify this.

I am a Midlothian resident, a keen birdwatcher and enjoy visiting the site most weeks of the year.

[REDACTED]

Sent from my iPhone

[[https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.eastlothian.gov.uk%2Fimages%2FELC\\_Be\\_Nice\\_EMAIL\\_FOOTER\\_\\_zerotolerance\\_1.png&data=05%7C02%7Cmfpsobjections%40eastlothian.gov.uk%7C5e168eb09cac4743356c08dc637e51e3%7C85e771afe90a4487b4071322ba02cc82%7C0%7C0%7C638494641383234791%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=wM0axCmYoWh%2B23BhJHX78J9JF1ysFv4ynrSGVEcXNkY%3D&reserved=0](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.eastlothian.gov.uk%2Fimages%2FELC_Be_Nice_EMAIL_FOOTER__zerotolerance_1.png&data=05%7C02%7Cmfpsobjections%40eastlothian.gov.uk%7C5e168eb09cac4743356c08dc637e51e3%7C85e771afe90a4487b4071322ba02cc82%7C0%7C0%7C638494641383234791%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=wM0axCmYoWh%2B23BhJHX78J9JF1ysFv4ynrSGVEcXNkY%3D&reserved=0)]

**Subject:** (0346) RE: Objection  
**Sent:** 23/04/2024, 11:16:55  
**From:** Grilli, Carlo  
**To:** [REDACTED]; Musselburgh Flood Protection Objections

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

**Categories:** [REDACTED]

Thank you for your engagement with the Musselburgh Flood Protection Scheme. This email is to confirm that your correspondence has been received and has now been forwarded to the objection inbox.

Under the Flood Risk Management (Scotland) Act 2009, the notification of the Musselburgh Flood Protection Scheme commences on Thursday 21st March 2024. Objections can be made about the proposed scheme until Wednesday 24th April 2024.

All correspondence received in connection with the proposed scheme will remain unread until the end of this objection period.

Kind Regards,  
East Lothian Council

---

**From:** [REDACTED]  
**Sent:** Monday, April 22, 2024 12:01 PM  
**To:** Grilli, Carlo [REDACTED]  
**Subject:** Objection

You don't often get email from [REDACTED]. [Learn why this is important](#)

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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

[REDACTED]

Dear Carlo Grilli

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

We live [REDACTED] River Esk in Musselburgh. I have two small children and at some point I want to be able to answer their question of 'how could you let these things happen?' with 'I did everything I could'. I'm watching this proposal and struggling to believe that it's the best we can do. There are so many better options.

I object to the published scheme because:

#### OBJECTION 1

This isn't an environmentally friendly answer to flooding. We should be looking to use Natural flood management in balancing and integrating the restoration of natural features and processes with existing land uses. We need to provide additional protection and climate proofing where defences are vital or already exist. We need to extend woodland to impede waterflow. Restore or add peatland and wetlands to create natural water storage. Connecting rivers with floodplains.

#### Objections 2.

Other options should be used first. Using a combination of:. Watershed or landscape-scale practices build interconnected systems of natural areas and open space. Examples include land conservation and greenways.

Neighborhood or site-scale practices manage rainwater where it falls to reduce stormwater runoff. They can often be built into a site or neighborhood without much extra space. Examples include permeable pavement and tree trenches.

Coastal practices stabilize the shoreline, reduce erosion and buffer the coast from storm impacts. While many watershed and neighborhood scale practices work in coastal areas, coastal systems are designed to support coastal resilience.

OBJECTION 3 this doesn't make sense financially to use this much funding to build something that isn't improving the environment.

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]

Verbal abuse and threatening behaviour is never acceptable. #zerotolerance

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

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

**Please, be nice.**



**BE NICE**  
RESPECT US AS WE RESPECT YOU

**Subject:** (0347) Flood Protection Decimastion to Wildlife

**Sent:** 23/04/2024, 11:17:00

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up

**Flag Status:** Completed

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Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

Dear Sir / Legal Services

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 destabilize 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?

Can I please receive and receipt and acknowledgement of my email. I will also be contacting my local MP and MSP.

Yours Faithfully

[REDACTED]

[REDACTED]

**From:** Grilli, Carlo  
**Sent:** 23 April 2024 11:18  
**To:** [REDACTED] Musselburgh Flood Protection Objections  
**Subject:** (0348 [REDACTED]) RE: Important

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

Thank you for your engagement with the Musselburgh Flood Protection Scheme. This email is to confirm that your correspondence has been received and has now been forwarded to the objection inbox.

Under the Flood Risk Management (Scotland) Act 2009, the notification of the Musselburgh Flood Protection Scheme commences on Thursday 21st March 2024. Objections can be made about the proposed scheme until Wednesday 24th April 2024.

All correspondence received in connection with the proposed scheme will remain unread until the end of this objection period.

Kind Regards,  
East Lothian Council

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**From:** [REDACTED]  
**Sent:** Monday, April 22, 2024 11:54 AM  
**To:** Grilli, Carlo [REDACTED]  
**Subject:** Important

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]

[REDACTED]

[REDACTED]

[REDACTED]

Carlo Grilli<sup>[L]</sup><sub>[SEP]</sub>  
Service Manager – Governance<sup>[L]</sup> Legal Services<sup>[L]</sup><sub>[SEP]</sub>  
East Lothian Council<sup>[L]</sup><sub>[SEP]</sub>  
John Muir House<sup>[L]</sup><sub>[SEP]</sub>  
Haddington<sup>[L]</sup><sub>[SEP]</sub>  
EH41 3HA<sup>[L]</sup><sub>[SEP]</sub>

Dear Carlo Grilli

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

We live [REDACTED] River Esk in Musselburgh. I have two small children and at some point I want to be able to answer their question of 'how could you let these things happen?' with 'I did everything I could'. I'm watching this proposal and struggling to believe that it's the best we can do. There are so many better options.

I object to the published scheme because:

#### OBJECTION 1

This isn't an environmentally friendly answer to flooding. We should be looking to use Natural flood management in balancing and integrating the restoration of natural features and processes with existing land uses. We need to provide additional protection and climate proofing where defences are vital or already exist. We need to extend woodland to impede waterflow. Restore or add peatland and wetlands to create natural water storage. Connecting rivers with floodplains.

#### Objections 2.

Other options should be used first. Using a combination of:. Watershed or landscape-scale practices build interconnected systems of natural areas and open space. Examples include land conservation and greenways.

Neighborhood or site-scale practices manage rainwater where it falls to reduce stormwater runoff. They can often be built into a site or neighborhood without much extra space. Examples include permeable pavement and tree trenches.

Coastal practices stabilize the shoreline, reduce erosion and buffer the coast from storm impacts. While many watershed and neighborhood scale practices work in coastal areas, coastal systems are designed to support coastal resilience.

OBJECTION 3 this doesn't make sense financially to use this much funding to build something that isn't improving the environment.

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]





**From:** Grilli, Carlo  
**Sent:** 23 April 2024 14:20  
**To:** Musselburgh Flood Protection Objections  
**Subject:** (0349 [REDACTED]) FW: Musselburgh flood prevention scheme  
**Attachments:** Musselburgh Flood Prevention Scheme.docx  
  
**Categories:** [REDACTED]

Attachment now included

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**From:** [REDACTED]  
**Sent:** Monday, April 22, 2024 10:55 AM  
**To:** Grilli, Carlo [REDACTED]  
**Subject:** Musselburgh flood prevention scheme

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.

Dear Mr Grilli,

I attach letter of objection.

Please acknowledge receipt.

Yours faithfully,

[REDACTED]



[REDACTED]  
[REDACTED]  
[REDACTED]

22 April 2024.

[REDACTED]

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

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

Dear Mr. Grilli,

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

I have been birdwatching at Musselburgh [REDACTED] which was before the ash lagoons were constructed. The Eskmouth and the lagoons are my favourite birding spot within easy reach of Edinburgh and in my view it would be a great pity if a road was constructed along the south side of the lagoons and a bridge built across the the River Esk at its mouth. This would completely destroy the amenity of the area and be to the detriment of the amenity value of the recently restored west lagoon with its newly constructed bird hides.

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

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

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

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

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

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

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

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

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

<sup>2</sup> E.g. Bryant, D. (1987) The Natural Environment of the Estuary and Firth of Forth. *Proceedings of the Royal Society of Edinburgh, Section B: Biological Sciences*, Volume 93, Issue 3-4, pp. 509 – 520 DOI: <https://doi.org/10.1017/S026972700006916>

<sup>3</sup> 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<sup>4</sup>. This precaution has not been followed therefore, and it further undermines the reliance that can be placed on a significant proportion of bird survey data used in the EIA Report.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yours faithfully,

A solid black rectangular redaction box covering the signature area.

**Subject:** (0350 NO ADDRESS) RE: Musselburgh Flood Protection Scheme - Objection

**Sent:** 23/04/2024, 11:18:31

**From:** Grilli, Carlo

**To:** [REDACTED]; Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up

**Flag Status:** Completed

**Categories:** NO ADDRESS

Thank you for your engagement with the Musselburgh Flood Protection Scheme. This email is to confirm that your correspondence has been received and has now been forwarded to the objection inbox.

Under the Flood Risk Management (Scotland) Act 2009, the notification of the Musselburgh Flood Protection Scheme commences on Thursday 21st March 2024. Objections can be made about the proposed scheme until Wednesday 24th April 2024.

All correspondence received in connection with the proposed scheme will remain unread until the end of this objection period.

Kind Regards,

East Lothian Council

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**From:** [REDACTED]

**Sent:** Monday, April 22, 2024 10:22 AM

**To:** Grilli, Carlo <[REDACTED]>

**Subject:** Musselburgh Flood Protection Scheme - Objection

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.

Dear Carlo Grilli

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

[REDACTED] I often visit as I have friends in the area and spend a lot of time in local businesses when visiting. I am also looking to move to Musselburgh in the future. The biggest draw for me is the benefit to mine and others mental health by spending time by the bank of the river and in other areas where the flood protection scheme is planned.

I agree flooding is a very serious issue and will need to be tackled to keep housing and lives safe. However I and others who have read the report and proposed plans feel like the measures being taken for flood protection use techniques detrimental to the area and destroy the environment, which is the very reason we want to visit/live in Musselburgh. These look like they have been made to make profit, rather than ensure the safety and wellbeing of residents and visitors.

As a taxpayer I am also aware that the money being used to destroy Musselburgh's greatest asset is being sent to an American organisation. Extracting money out of our economy and being sent into the pockets of a company that has no real investment in the area.

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 this email address.

Thank you for reading

[REDACTED]

Verbal abuse and threatening behaviour is never acceptable. #zerotolerance

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

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

**Please, be nice.**



**BE NICE**  
RESPECT US AS WE RESPECT YOU

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

22 April 2024

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

[REDACTED]

Dear Mr. Grilli,

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

I am writing as a regular visitor to Musselburgh to watch birds at the mouth of the Esk and at the lagoons, an area that is internationally important for many species of bird. I am also the [REDACTED] of the [REDACTED] and I would refer specifically to the section below concerning the information that the [REDACTED] could provide but which does not appear to have been obtained in any biodiversity assessment made to date. I am very concerned that the scheme fails to take into account the needs of the birds that feed and roost there. Because this is such a significant site for birds it is an area that the Council should be looking to protect and even enhance, rather than risk harming.

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

Inadequacy of the EIA Report's Ornithology Baseline

The results presented in the EIA Report from surveys of shoreline and coastal birds (the 'through the tide counts') are insufficiently detailed to adequately assess the impacts of the Scheme on these species. This failure is especially important because the Scheme is adjacent to, or in places actually within, the Firth of Forth Special Protection Area (SPA), the Firth of Forth Ramsar Site, the Firth of Forth Site of Special Scientific Interest (SSSI), and the Outer Firth and the St. Andrews Bay Complex SPA. These are internationally and nationally important designated sites for birds, and any assessment of impacts on these designations require must be informed by

comprehensive robust and appropriately detailed baseline data. The EIA Report does not present such data.

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

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

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

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

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

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

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<sup>4</sup>. This precaution has not been followed therefore, and it further undermines the reliance that can be placed on a significant proportion of bird survey data used in the EIA Report.

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

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

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

However, it completely fails to identify the main habitat impact from the Scheme, namely the loss of shoreline and inter-tidal habitats over its 100-year operational life. These losses will occur as a direct result of the Scheme's construction of hard defence structures along the coast where these are currently absent or limited, through what is known as 'coastal squeeze'. This impact needs to be fully identified and assessed in the EIA Report, in particular the Scheme's proposed hybrid wall structures at Work Sections 6 and 7 (impacting 325m and 290m of coastline respectively) and its concrete walls along Work Sections 8 and 9 (impacting 393m and

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

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

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

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

The rare instance when evidence and published peer reviewed information is referenced in support of the assessment of impacts is for kingfisher (see section 7.6.2.3.4). Kingfisher is only a species of regional importance, yet the EIA Report’s assessments of impacts on internationally or nationally important bird species are repeatedly made without any reference to peer reviewed or other evidence, or even to standard NatureScot guidance (for example, in relation to disturbance, Goodship and Furness 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<sup>7</sup>. Furthermore, East Lothian Council, who commissioned the EIA, has

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

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

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

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<sup>8</sup>, and that approximately one third of the Firth of Forth SPA/Ramsar's qualifying species are in unfavourable conservation status (Protected Nature Sites (sepa.org.uk), 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

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

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 by inclusion of clear evidence-based and quantified prediction of the level of increased activity as a result of the ATN path and Goose Green Foot Bridge construction, compared to present levels<sup>9</sup>, and secondly by ensuring the assessment of disturbance impacts on each qualifying species of the SPAs, Ramsar and SSSI are made on the basis of these predicted operational levels of activity, and supported by an appropriate level of detail and evidence.

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

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

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

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

No access has been provided to the current draft HRA for the Scheme. It would be greatly appreciated if the HRA could be made available by the Council, not least because, it would

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

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,

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

**From:** [Grilli, Carlo](#)  
**To:** [Musselburgh Flood Protection Objections](#)  
**Subject:** (0352) FW: OBJECTION LETTER  
**Date:** 23 April 2024 14:10:11  
**Attachments:** [24\\_4\\_21\\_Flood Objection Letter\\_.pdf](#)

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Noting that the letter had not been attached in previous e-mail

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**From:** [REDACTED]  
**Sent:** Monday, April 22, 2024 9:28 AM  
**To:** Grilli, Carlo [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** OBJECTION LETTER

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.

Good Morning Mr Grilli,

Please find attached our letter of objection for the Musselburgh flood defence scheme.

Please acknowledge receipt of this letter. Copy to be sent by email/post.

Kind regards

[REDACTED]  
[REDACTED]  
[REDACTED]

Mobile - [REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19<sup>th</sup> April 2024

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

Dear Mr Grilli

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

While I acknowledge the climate risks and support the upgrading of flood defences, assuming we proceed with the scheme, I have concerns that require recognition and explanation in layman's terms for deeper community discussions.

I request a bond of trust and openness between residents and councillors to ensure that the project's intentions prioritise the community's best interests.

Transparency and integrity should guide our decisions, ensuring that solutions are pursued with the utmost sincerity for the benefit of our community, rather than driven by financial motives.

Presently I feel that this has not been achieved and seek further details and reassurance. Each objection presented is independent and not reliant on any other objection outlined in this letter.



## FIRST GROUND OF OBJECTION

The environmental impact assessment (EIA) that was published states that any harm to nearby structures caused by the construction works would be superficial.

However, we have never been contacted by Jacobs to provide access to our house for inspection or survey purposes, nor were we asked for any details regarding the construction type, depth of footings, or any other relevant information.

It seems that the EIA was solely based on a superficial visual assessment of our property. Therefore, any conclusion suggesting that extensive local heavy construction work would result in only superficial damage cannot be considered reliable.

To accurately determine the level of risk to properties close to piling activity, a detailed examination of their current condition and foundations would be necessary. Hence, I object to the proposed scheme because the assessment of the risk to our property and living conditions posed by construction activities has not been accurately conducted.

## SECOND GROUND OF OBJECTION

The Environmental Impact Assessment (EIA) outlines that the acceptable noise threshold for construction activities is 70 decibels (db). However, based on the data provided in EIA Table 8.11, it's projected that the noise level at [REDACTED] will peak at 79 decibels (db), significantly surpassing the permissible limit.

This elevated noise level is very concerning as it will directly impact our home, work, and life over a prolonged period of time. Therefore, I strongly oppose the proposed scheme due to the anticipated construction noise levels exceeding acceptable thresholds and the substantial impact it will have on our daily living conditions.

## THIRD GROUND OF OBJECTION

The design images presented thus far do not provide a fair representation of how the finished works will look. This selective and inadequate portrayal prevents the people of Musselburgh from fully comprehending the scope and impact of the proposed scheme.

To truly understand the complexity and implications of the project, there needs to be more detailed multiple views of the artist impressions corresponding to the architectural and engineering drawings that are accessible to laypersons.

These drawings should accurately depict the proposed changes and their potential impact on the natural and living environment.

Without such comprehensive representations, all residents are left in the dark about the true extent of the project and its implications for our community. It is essential that all stakeholders have access to clear and transparent information to make informed decisions and participate meaningfully in discussions about the future of our town.

The representations/artist impressions within the documents are not a true rendition to the plans if using the drawings. (I use Eskside East for direct reference and discrepancy but attain to the whole project overall and lack of proper visuals)

We are deeply concerned about the proposed ingress into the river to create more land, as this process will have a significant impact on the flow and route of the river and on the lives of ourselves, my neighbours, and all the broader community of Musselburgh.

It does not respect local context and street pattern or the scale and proportions of surrounding buildings and would be entirely out of the character of the area, to the detriment of the local environment. We consider the proposed development to be a direct contravention, to protect or enhance the local environment, including wildlife habitats, trees, woodland parks, and gardens.

Drawing Reference - 701909-JEC- S5-W04-XXX-DR-Z-000 - 701909-JEC- S5-W04-XXX-DR-Z-0002



Photo 4: Photomontage of stone clad wall within the Conservation Area (Eskside East looking southwest)

There is no illustration or reference to “The ramp” that would impinge into the front of 14 Eskside East and if your plans are correct no trees.

ACTUAL VIEW



The published drawings of the new Shorthope Street bridge [701909-JEC-S5-W34-XXX-DR-Z-0001] show that this is substantially higher than the existing bridge, however the photomontage included in Appendix B9 of the EIA [view 7] shows that the bridge will be no higher than the existing bridge. This is clearly a misrepresentation of what the proposed scheme would look like if built.



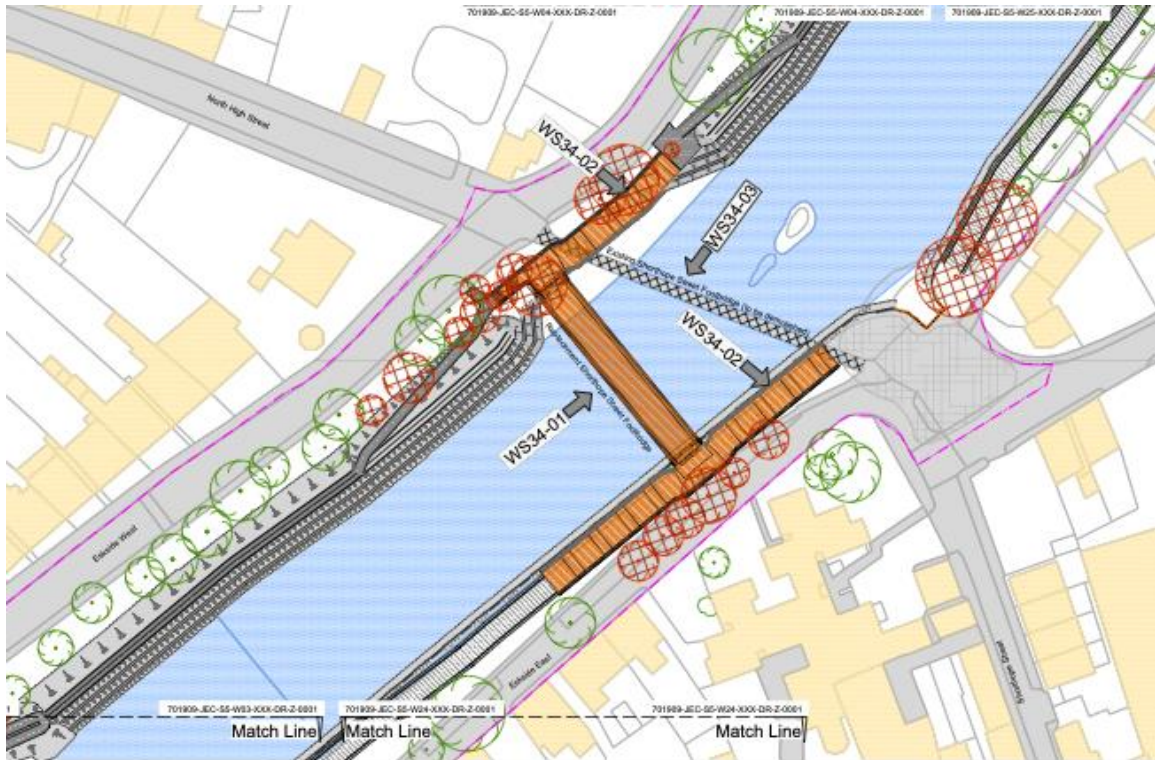
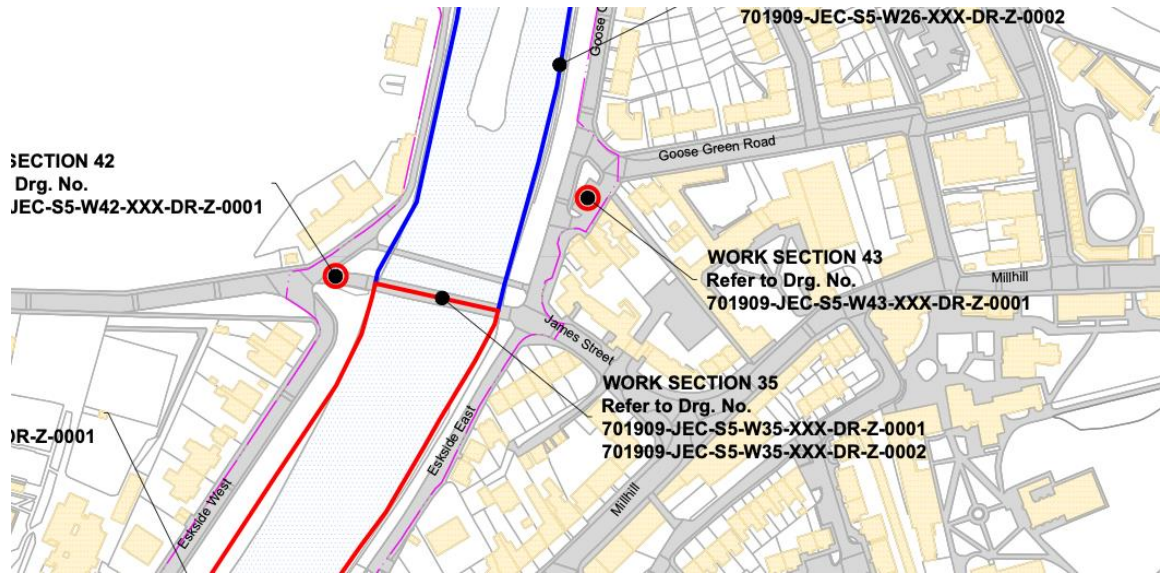
Photo 7: Photomontage of Shorthope Street Footbridge

The water level proposed in this image is of a depicted design event, this is misleading as an occurrence, that will seldom happen and may only reach this threshold in 2050.

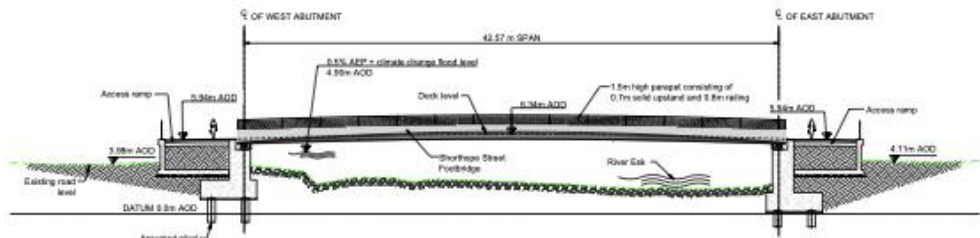
#### FOURTH GROUND OF OBJECTION

The Schedule of Scheme Operations, as outlined in section 4.24 paragraph WS24-01, specifies that for work section 24, the wall will have a minimum height of 1 meter and a maximum height of 1.7 meters above the finished ground level. In Drawing no. 701909-JEC-S5-W24-XXX-DR-Z-0001, a cross-section demonstrates the 1-meter height at a location approximately midway between the 'Rennie Bridge' and the proposed new 'Shorthope Street Footbridge'. Despite our efforts to confirm the design height of the wall in front of the property [REDACTED] by reviewing various project plans, we have been unable to obtain this technical detail.

Therefore, we object to the proposed scheme because we have not been provided with an accurate assessment of how the scheme will affect sightlines from [REDACTED].



**PLAN**  
SCALE (A1) 1: 500  
SCALE (A3) 1: 1000



**LONGITUDINAL SECTION FACING NORTH-EAST**  
SCALE (A1) 1: 200  
SCALE (A3) 1: 400

The published plan of construction from the Rennie Bridge to Shorthope Street bridge [701909-JEC- S5-W24-XXX-DR-Z-0001] clearly shows that the access ramp for the new Shorthope Street bridge will end in front of 14-16 Eskside East, however the photomontage of this area which shows the whole frontage of 14-16 Eskside East [EIA Appendix B9 Key View 10] shows no ramp. This is clearly a misrepresentation of what the proposed scheme would look like if built.

Replacement bridges shall be constructed for the Ivanhoe Footbridge (Photo 6), Shorthope Street Footbridge (Photo 7), Electric Bridge (Photo 8) and Goose Green Footbridge (Photo 9), which will be higher (to allow more floodwater to flow through them (see Figure 4 for locations).

Where appropriate the locations of the new footbridges have been altered to improve transit links across the river (Ivanhoe and Shorthope Street Bridges) and along the coastal John Muir Way (Goose Green Bridge).



Photo 6: Photomontage of the replacement Ivanhoe Footbridge (repositioned to Haugh Park)



Photo 8: Photomontage of the replacement Electric Bridge



Photo 7: Photomontage of Shorthope Street Footbridge



Photo 9: Photomontage of Goose Green Footbridge (relocated downstream toward mouth of river)

The visual representations provided in the Design Statement for the Ivanhoe [photo 6], Shorthope St [photo 7], Electric [photo 8], and Goose Green [photo 9] bridges illustrate the bridges during a "design event," which currently has less than a 0.5% Annual Exceedance Probability (AEP) and is projected to reach this threshold only by 2050. A design event is anticipated to occur for a brief period, lasting only a few days at most.

Portraying the bridges during a design event is highly misleading, for most of the time, such events are not expected to happen. These images cannot be considered as providing an accurate and comprehensive representation of how the bridges would appear if constructed.

## FIFTH GROUND OF OBJECTION

As a resident directly impacted by the proposed bridge build at [REDACTED] we have multiple objections to the published scheme.

Firstly, we request a clear demonstration and rationale for the need of the second ramp and its expanded width to 5 meters in the wider flood protection scheme.

We oppose the proposed realignment on the grounds that it fails to mitigate flood risks for the town and will adversely impact many bridge users traveling from Shorthope Street to North High Street. The existing bridge alignment provides a direct connecting link between Shorthope Street and North High Street, whereas the proposed new alignment will

unnecessarily extend travel routes. This extension will disproportionately affect disabled bridge users, a demographic that has not been adequately addressed in the published documentation. Therefore, we object to the proposed scheme because the revised alignment of the Shorthope Street bridge is not suitable.

#### SIXTH GROUND OF OBJECTION

The presence of two ramps appears unnecessary, especially considering the absence of a corresponding ramp on the west side. This redundancy contributes to unwarranted additional costs in the construction of the bridge.

Therefore, we oppose the proposed scheme due to the adverse impact the upstream access ramp for the replacement Shorthope Street footbridge will have on our street, properties, and privacy, without offering any significant enhancement to the scheme's flood protection capabilities.

#### SEVENTH GROUND OF OBJECTION

The present location of the original bridge is optimum for all user's access and needs, and as such should be either closed and upgraded or replaced in the exact same location.

There is no flood benefit for it to move when the bridge serves a direct clear route and connection to and from North high street and Shorthope street for all types of mobility and active travel.

The present bridge position is also optimum for all residential homes around the bridge, I suspect that no full day or evening observation of the public use has been considered, we have been unable to find this information as noted in documentation 93 homes visited "project team claims to have visited numerous homes of residents directly impacted by the scheme" not one member has come to ourselves or my neighbours who will be seriously impacted.

We seek further clarity and drawings on the Millhill car parking layout and proposal of the building [REDACTED] within the wider scope of the works.

We oppose and object to the proposed location of this bridge the additional ramp and its expanded width to 5 meters and its lack of proven ability to protect in the wider flood protection scheme.

We believe that the Flood Act stipulates that everyone is entitled to privacy and peaceful living.

#### EIGHTH GROUND OF OBJECTION

As a local resident who actively participated in the viewing of the plans last year in June 2023 and engaged with the project team, I am deeply disappointed by the lack of follow-up and communication regarding my concerns. Despite requesting direct contact and a visit to my property to discuss the designs further, this has not materialised.

It is concerning to hear that the project team claims to have visited numerous homes of residents directly impacted by the scheme, yet I have not received any communication or engagement. The lack of follow-through on promises of tailored flood protection solutions and meaningful consultation is deeply disappointing.

This silence effectively prevents individuals like me from exercising our democratic right to voice objections and concerns regarding the proposed scheme. Transparency and genuine engagement with residents are essential for fostering trust and ensuring that the project reflects the needs and concerns of the community it aims to serve."

We object to being ignored.

#### NINETH GROUND OF OBJECTION

Throughout the design development, the 'Musselburgh Active Toun' (MAT) project has been integrated into the flood scheme. However, in the proposed design, the MAT project has been excluded and is now indicated in the drawings as 'presumed'. Certain design elements of the proposed scheme are tailored to accommodate the MAT project, despite these elements not contributing to the flood protection capability. The removal of the MAT project from the current scheme presents two potential problems.

- A) If the scheme is approved as proposed, there may be undue pressure to approve the MAT project in its current form, as the flood scheme has been designed with its integration in mind.
- B) If the MAT project is not approved or is modified, the ancillary works on the east side of the river will not align with appropriate infrastructure. Consequently, I object to the current proposal because the scheme design has been overly influenced by the MAT project, including river narrowing and bridge design, rather than designing the MAT project to complement the flood scheme.

Currently, the ancillary works (footbridges and paths) on the east side of the river are reliant on the approval of an independent project to function as intended, rather than being part of a fully independent design.

#### TENTH GROUND OF OBJECTION

As residents of Musselburgh, we are deeply concerned about the potential consequences of the proposed flood protection scheme on our community's cherished green spaces along the coast and by the river. These green spaces are not only a source of enjoyment for residents and visitors alike but also play a vital role in supporting all our mental health and well-being. It is imperative that we preserve these green spaces to maintain Musselburgh's character and amenity.

Furthermore, the river in its present state supports a complex biodiversity, including varied residential animal species and migratory species unique to the area. This rich biodiversity attracts a high number of visitors to Musselburgh, who come to appreciate and enjoy the natural beauty of our surroundings and support

the local businesses within the area. Any disruption to this delicate ecosystem will have profound consequences for both local wildlife, the community's enjoyment of the area and financial stability of the business community.

#### ELEVENTH GROUND OF OBJECTION

Within the document BS5837:2012 Tree Survey Report, there is a statement implying that adverse effects on the townscape and views associated with vegetation loss will diminish over time as vegetation becomes established and the scheme becomes more embedded in the landscape. While compensatory planting is proposed in certain areas, this approach fails to adequately address the significant impact of tree felling, particularly along both sides of the riverside footpaths.

We oppose this off-hand approach to tree removal as outlined in the report. At the time of writing, detailed design specifications for the scheme are lacking, making it impossible to accurately assess tree retention or loss, there needs to be further scrutiny prioritizing the retention of certain tree features. Trees of moderate quality ('B' grade) should be retained where possible, with high-quality trees ('A' grade) and potential veteran trees receiving priority for retention. This AIA should facilitate an iterative design process, fostering a deeper understanding for the public to truly understand the construction build process, plant required to build this project the disruption and the consequence on tree removal and the damage that will happen to all the trees on these banks is untenable, as with our THIRD objection the visualisation must show the honest view.

#### TWELTH GROUND OF OBJECTION

We oppose the extensive use of concrete in the project and seek detailed reasoning, supported by underlying technical evidence, for this design choice. The aesthetic and functional implications of hard engineering, including large concrete walls, must be carefully considered in addressing the 21st-century problem of flood risk. It is essential to recognise that simply building higher walls does not eliminate flood risk, as evidenced by significant flooding in other areas despite similar investments in flood defences.

We are deeply concerned about the significant carbon emissions associated with the proposed scheme, even with the revised mix of concrete. While we appreciate efforts to mitigate carbon release, we question whether future floods would offset these emissions sufficiently.

#### THIRTEEN GROUND OF OBJECTION

We oppose and we are deeply concerned to why the council has chosen to halt natural flood management initiatives, including various techniques to slow the river and encourage the natural dune system along the coast. It seems counterintuitive not to pursue these symbiotic options alongside traditional flood protection plans.



The Scottish government has explicitly recognised the significance of natural flood management measures in reducing flood risks and delivering multiple environmental benefits. Their statement on December 23, 2023, underscores the importance of such measures across catchments and along the coast.

We are perplexed as to why East Lothian Council is not aligning with the Scottish Government's stance on natural flood management. Given the potential environmental benefits and the government's endorsement, it seems prudent for the council to reconsider its approach and explore integrated solutions that incorporate natural flood management techniques."

#### FOURTEEN GROUND OF OBJECTION

We demand assurance from East Lothian Council that the proposed design will not result in serious adverse consequences for human health, the environment, cultural heritage, or economic activity. We must prioritise solutions that are sustainable, resilient, and considerate of our community's well-being and long-term interests through intuitive and creative design solutions.

#### FIFTEEN GROUND OF OBJECTION

We are supportive of a scheme that appropriately addresses future flood risks while actively contributing to climate change mitigation and biodiversity promotion. We oppose the allocation of the budget spend and breakdown.

We have significant concerns regarding the transparency and clarity surrounding the costs associated with the proposed project. The current cost estimate of £132 million, with £53 million allocated for flood protection, lacks a transparent breakdown that we have been unable to find in the public domain.

Moreover, it has come to our attention that the council has been informed of potential cost increases yet voted to proceed with the project without sufficient information. We find it troubling that there is no cap on the project's cost, leaving it vulnerable to escalation without proper oversight.

Furthermore, there appears to be discrepancy in the number of properties being protected, with the latest update citing 3200 properties, which contradicts other documents we have reviewed. We object and request clarity on how the £132 million budget breaks down per capita and urge the council to provide robust evidence to support these figures.

Additionally, we object and seek transparency regarding the £4 million reportedly spent in December 2023 on design and consultations. This expenditure raises concerns about the allocation of funds, particularly considering decreasing budgets for essential community services such as care for the elderly, health and wellbeing amenities, library services, cultural facilities, and road repairs.

We request open dialogue and co-operation for our concerns to be taken seriously and addressed effectively.

Please acknowledge receipt our letter of objection, in writing. Please advise us of next steps, and timescales.

Yours Faithfully,

[Redacted Signature]

[Redacted Name] & [Redacted Name]

Carlo Grilli

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

April 22 2024

Dear Mr. Grilli,

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

My wife and I have been frequent (monthly) visitors to Musselburgh over the [REDACTED] years where we enjoy walking along the seafront and seawall to view the wide range of ducks, seabirds and other passerine birds that occur here. In our experience, Musselburgh is almost unique in the ability it gives to bird watchers to access a variety of species including sea ducks without use of the most expensive optical equipment. This access is recognised in the various designations that cover the birdlife in the Forth and on the sea shore. We are therefore very concerned that the proposed flood scheme will affect the bird life and our enjoyment of it, while doing little to improve the flood protection for Musselburgh.

In particular, we are concerned that the Environmental Impact Assessment carried out as a prelude to the scheme appears to be deficient both in its evaluation of the baseline ornithological interests and in the consideration of likely habitat loss from the scheme. We are further concerned that the length of time necessary for the structural works required to install the proposed scheme will result in a lengthy loss of access to the seawall and surrounding areas. We feel that these aspects have not been properly factored into the costings for the scheme and think that a full cost-benefit analysis would have resulted in a less disruptive and more nature friendly flood protection scheme.

Please acknowledge receipt of this letter of objection. Please also advise me of the next steps, and timescales for the evaluation of this proposal.

Yours Faithfully,

[REDACTED]



**Subject:** (0354) RE: Musselburgh Flood Protection Scheme  
**Sent:** 23/04/2024, 11:20:32  
**From:** Grilli, Carlo  
**To:** [REDACTED]; Musselburgh Flood Protection Objections

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

Thank you for your engagement with the Musselburgh Flood Protection Scheme. This email is to confirm that your correspondence has been received and has now been forwarded to the objection inbox.

Under the Flood Risk Management (Scotland) Act 2009, the notification of the Musselburgh Flood Protection Scheme commences on Thursday 21st March 2024. Objections can be made about the proposed scheme until Wednesday 24th April 2024.

All correspondence received in connection with the proposed scheme will remain unread until the end of this objection period.

Kind Regards,  
East Lothian Council

**From:** [REDACTED]  
**Sent:** Monday, April 22, 2024 9:26 AM  
**To:** Grilli, Carlo [REDACTED]  
**Subject:** Musselburgh Flood Protection Scheme

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.

*Carlo Grilli* [REDACTED]  
Service Manager – Governance [REDACTED]  
Legal Services [REDACTED]  
[REDACTED]

East Lothian Council  
John Muir House  
Haddington  
EH41 3HA

[REDACTED] 22/04/24

Dear Mr. Grilli,

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

For the [REDACTED] years or so I have been a very frequent visitor to the most important site for a large number of bird species and birdwatching in the Lothians. I am only one of many Lothian, and from further afield, birders who regularly frequent the area. The feeling of every birder that I have

met there, and elsewhere in the region, is that the proposed plan does not properly protect, or indeed as it should enhance, this area of international importance for such large gatherings of birdlife.

Others have put together a very detailed list of grounds of objection as outlined below which I am in full agreement with.

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 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 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 \(sepa.org.uk\)](https://www.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 by inclusion of clear evidence-based and quantified prediction of the level of increased activity as a result of the ATN path and Goose Green Foot Bridge construction, compared to present levels [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,



[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.

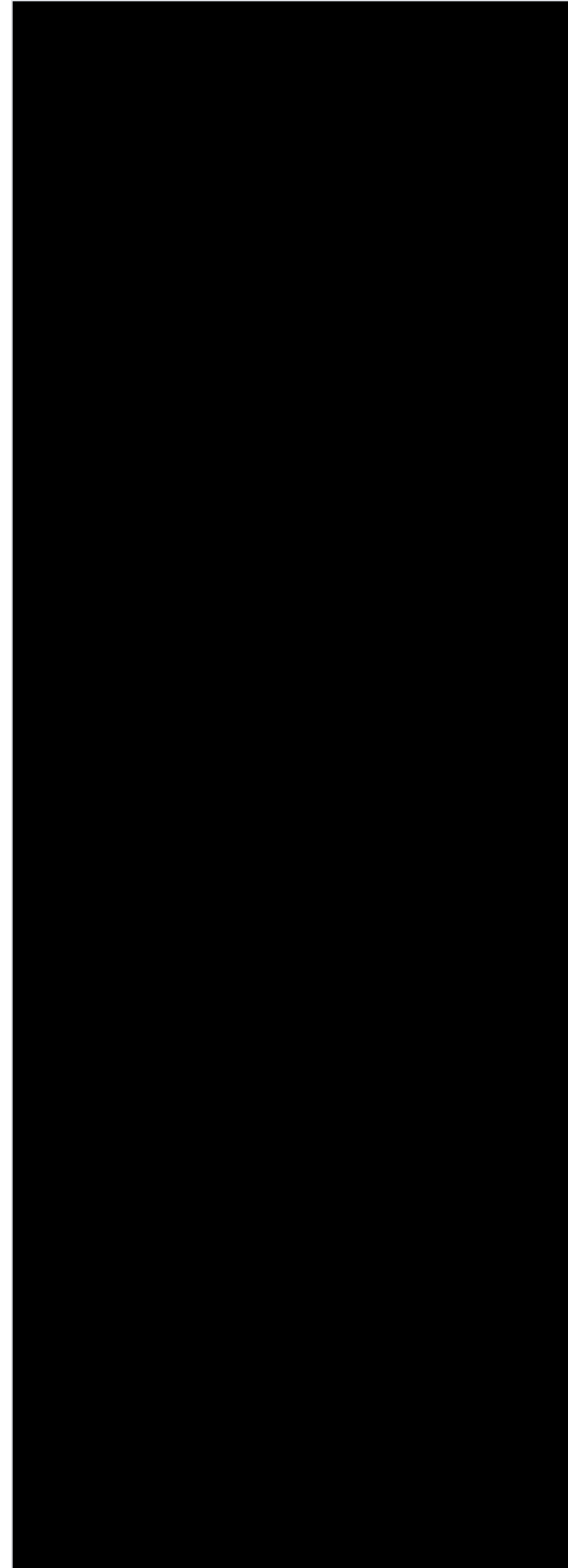
[4] Although relating to bird surveys for wind farms, the importance of avoiding construction disturbance that may affect survey results is made clear in Section 2.1.1 and Box 1 in NatureScot (2017) Recommended bird survey methods to inform impact assessment of onshore wind farms. March 2017, Version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

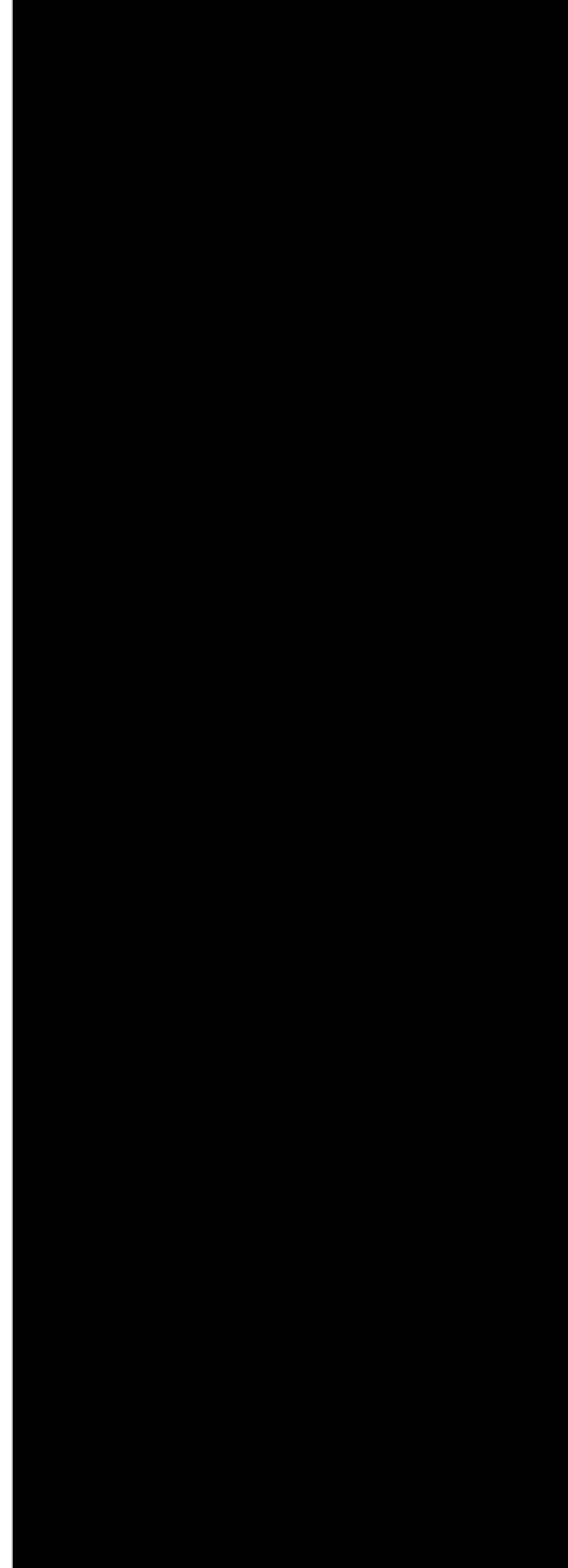
[5] Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. September 2018 Version 1.2 - Updated April 2022

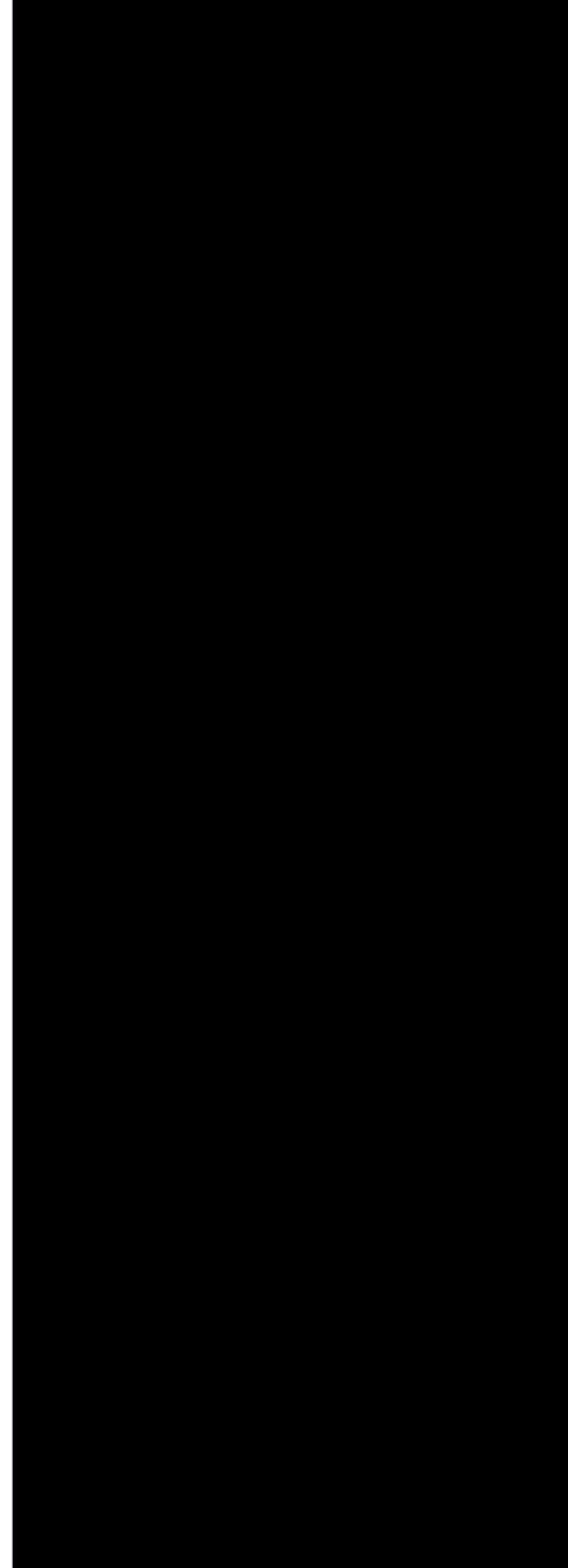
[6] Goodship, N.M. and Furness, R.W. (2022) Disturbance Distances Review: An updated literature review of disturbance distances of selected bird species. NatureScot Research Report 1283.

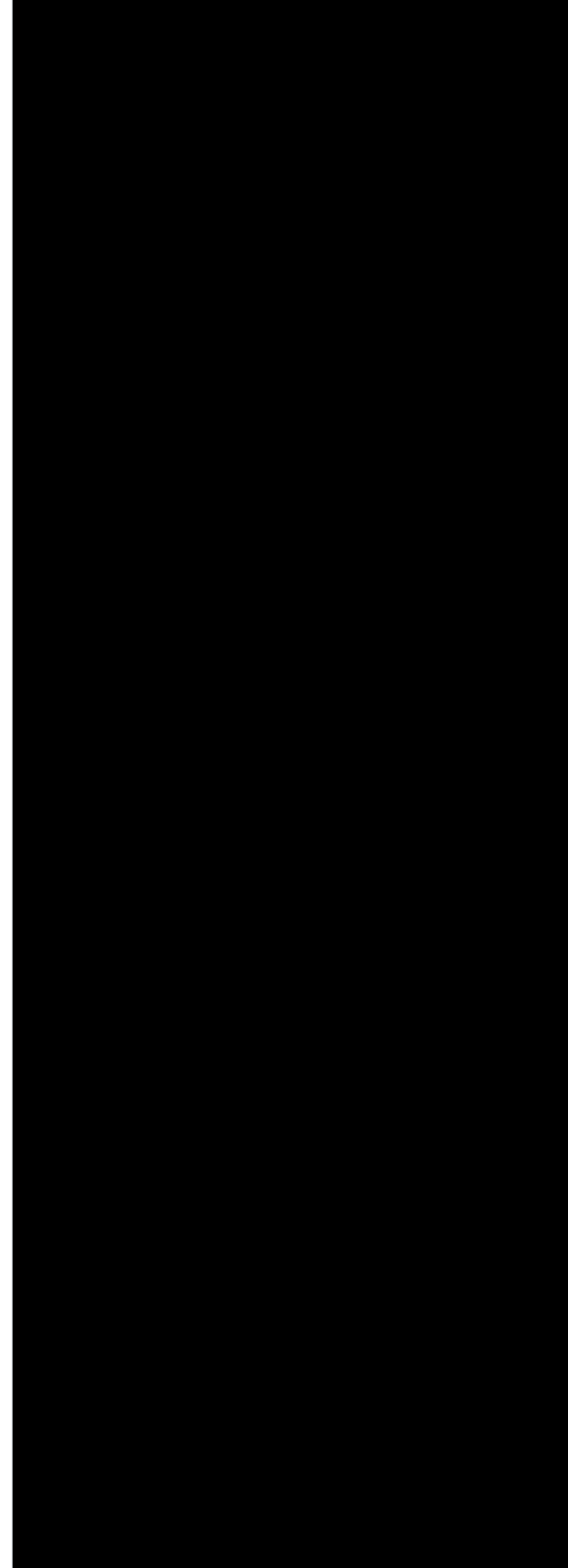
[7] See, for example, the inter-tidal and near-shore bird data presented in Appendix 6C: Intertidal and Near-shore Bird Surveys of the Inch Cape Onshore Transmission Works EIA report (ICOL,2018b) at [OnShore-EIA-Appendix-6C-1of-2.pdf \(inchcapewind.com\)](#) and [OnShore-EIA-Appendix-6C-3of-4.pdf \(inchcapewind.com\)](#). 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

Verbal abuse and threatening behaviour is never acceptable. #zerotolerance

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

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

Please, be nice.



  
East Lothian  
Council

**BE NICE**  
RESPECT US AS WE RESPECT YOU











**From:** Grilli, Carlo  
**Sent:** 23 April 2024 14:21  
**To:** Musselburgh Flood Protection Objections  
**Subject:** (0355 [REDACTED]) FW: Musselburgh Flood Prevention Scheme  
**Attachments:** Musselburgh\_Flood\_Pevention\_Scheme.docx

With attachment

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**From:** [REDACTED]  
**Sent:** Monday, April 22, 2024 9:00 AM  
**To:** Grilli, Carlo [REDACTED]  
**Subject:** Musselburgh Flood Prevention Scheme

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.

Dear Mr Grilli,  
Please find attached my letter objecting to the Musselburgh Flood Prevention Scheme on the grounds that it will severely impact a nationally important area for wading and sea birds.  
Kind Regards,

[REDACTED]



Carlo Grilli

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

22/4/24

Dear Mr. Grilli,

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

I regularly visit Musselburgh to birdwatch around the mouth of the Esk and the adjacent scrapes, including the excellent new set of pools that have been created. Like most birdwatchers, many from far afield, I come here because of the abundance of waders and seabirds that use this nationally important area to feed and rest. The pressures on these birds are immense, particularly in areas such as Musselburgh where there are high levels of disturbance from dogs and water sports. The river mouth and scrapes are a refuge from this disturbance and I believe the proposed flood protection scheme will have serious and long-term impacts on the birdlife in this area.

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

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

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

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

cannot therefore also judge whether proposed mitigation measures are adequate, or whether the identification of residual impacts on birds can be relied upon. For all these reasons, the baseline survey data in the EIA in its current form is not fit for purpose. It needs to be rectified by the submission of Further Environmental Information, and until that is carried out, I object to the Scheme on grounds of inadequate baseline bird data being provided in the EIA Report. As additional bird surveys are still being undertaken, the more detailed results requested can be published at the same time as these additional data (but all to the appropriate level of detail).

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

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

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

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

<sup>2</sup> E.g. Bryant, D. (1987) The Natural Environment of the Estuary and Firth of Forth. *Proceedings of the Royal Society of Edinburgh, Section B: Biological Sciences*, Volume 93, Issue 3-4, pp. 509 – 520 DOI: <https://doi.org/10.1017/S026972700006916>

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

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.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yours Faithfully,

A solid black rectangular redaction box covering the signature area.

**Subject:** (0356) Submission to Musselburgh Flood Protection Scheme consultation

**Sent:** 23/04/2024, 11:36:02

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

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

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Dear Mr Grilli,

I don't usually write to such consultations, but I am writing you this letter on this occasion to formally object to the proposed Musselburgh Flood Protection Scheme 2024 (the Scheme).

I live at [REDACTED], but spend a lot of time with friends and family on Musselburgh so I have a huge concern about the future of this area.

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

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

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

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

## Biodiversity

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

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

I object to the current proposals on the grounds that the biodiversity enhancements are not strong enough and further

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

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

Concerns over Contribution to Climate Change

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

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

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

Yours sincerely,

[Redacted signature]

[Redacted contact information]

**Subject:** (0357) Musselburgh Flood Protection Scheme

**Sent:** 23/04/2024, 11:42:01

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up

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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 wife 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.

I have lived in Musselburgh on and off since I was 9 years old and have lived the last [REDACTED] years in my current address which is on the river. In all that time I have only known two properties on the Esk in Musselburgh to have flooded, 8 Eskside West which is unusual in that it has a basement and Newfield House (the property on the Loretto playing fields) and both of those events were over 30 years ago and could have easily been averted by a few sandbags and the primary cause of both were trees getting caught on the bridges near each property forcing the river over the banks in that vicinity.

In the last 20 years the water might have topped the walls along the river bank but has never come near to flooding any of the properties. Indeed the closest we have come to being flooded is by the poor maintenance of the drains which are constantly blocked and sewerage backflow from the recent failings of the pumps. The area the council likes to show being "flooded" is the path along the Loretto playing fields which has always flooded at high tide in all the years I have been in Musselburgh and has no impact on any residential property but appears to look good to support the proposals being put forward.

However we are aware of the implications of climate change and what that may mean for flooding in Musselburgh however what is being proposed is in no way proportionate and does not serve the overall welfare of the people of Musselburgh or indeed the other communities in Scotland where flooding is an actual issue at the moment and need these resources for their defence.

We wish to raise a number of concerns as follows:

1. The proposed scheme is over engineered. Lower impact and lower cost options such as temporary barriers and property based solutions do not seem to have been properly considered. These would have a far lower impact on the people and wildlife of Musselburgh. Following discussions with the engineers it would appear to me that one of the main reasons is funding, the government would rather pay a disproportionately large sum now rather than the lower cost of temporary defences which would however have an ongoing cost per installation. This to me is an irrational use of tax payer funds and is more about accounting than about dealing with the real issue of flood prevention in a rational and proportional manner.
2. The flood prevention scheme also appears to have been amalgamated with the active town process. This does not serve the purpose of rational flood prevention. Vast sums of money are being allocated it seems just because the money is there and needs to be spent, again this is totally irrational. A new bridge at Goose Green to cut off around 400m of walking or cycling is utterly irrational especially if exercise and activity is the goal. The process also seems to go against ideas of flood prevention. Hard surfaces etc.
3. Further the current plan to place more pavements on top of the proposed bund is again excessive, wasteful and will have an impact on many of the properties along the river without any residential visual impact assessment which takes account of the properties being done.



4. It remains unclear as to why the council are not looking at flooding in the town in a holistic manner. As mentioned above 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. Indeed the last flooding issue the town had a few years ago had nothing to do with the river and everything to do with the council failing to clear the drainage on the roads.

5. To my understanding there is no 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. Consideration also needs to be given to the vandalism and graffiti along the walls that will happen if they are constructed having a negative impact on the community and environment.

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. Therefore this proposal is not in accordance with Scottish Government policy.

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



**Subject:** (0358) Flood Protection Scheme- loss of bridle paths

**Sent:** 23/04/2024, 12:02:11

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

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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 am concerned about this as I enjoy riding my horse on tranquil bridle paths that will be ruined by the proposed work across the Esk on the west side of the over bridge of the A1. I want to object for the following reasons

1. I am concerned about the impact and nuisance this will cause to myself and other riders and walkers whose mental and physical wellbeing is enhanced by this area of natural woodland.
2. The impact of the construction traffic is another concern as the paths are narrow and used by riders, walkers, families with small children and movement of farm animals. Clearly construction traffic would cause potential safety issues to these groups and cause significant disruption.
3. I am also concerned about the impact on wildlife. This area is a haven for birds, including birds of prey, deer, hares and many other small animals. To damage or destroy trees would not only affect habitats but is contrary to their importance in combating climate change. To destroy such an area of natural beauty seems outrageous.
4. I feel that the proposed scheme has not taken into account how much this area is appreciated and used for the benefit and wellbeing of the local community and horse riders who use it. It feels as if we are becoming more marginalised with less areas to safely enjoy. This particular area along the riverside is particularly appreciated by myself and other riders and would be lost to us if this went ahead.

Yours sincerely

[REDACTED]

23.4.24

Sent from my iPad

**Subject:** (0359) Objection Letter to Musselburgh Flood Protection Scheme

**Sent:** 23/04/2024, 12:06:18

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up  
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23/04/24

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.

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Nonetheless these outstanding surface water issues have not been addressed. These are likely to exacerbate existing flooding risk.

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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.

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30. Potential impact on house values - will we be compensated for the potential loss in value of our house?

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,

A large black rectangular redaction box covering the signature area of the letter.

Sent from my iPad

**Subject:** (0360) MUSSELBURGH FLOOD PROTECTION SCHEME 2024  
**Sent:** 23/04/2024, 12:06:21  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections  
**Attachments:** [88 2024 NR No Objection.doc](#)

**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.

OFFICIAL

Dear Sir/Madam,

Thank you for the consultation regarding the above proposal. Please see attached Network Rail's response.

Regards

[REDACTED]



[REDACTED]  
Network Rail Property (Scotland)  
151 St Vincent Street, Glasgow, G2 5NW  
07702400389  
[REDACTED]

[www.networkrail.co.uk/property](http://www.networkrail.co.uk/property)

Please send all Notifications and Consultations to [TownPlanningScotland@networkrail.co.uk](mailto:TownPlanningScotland@networkrail.co.uk) or by post to Network Rail, Town Planning, 151 St Vincent Street, Glasgow, G2 5NW

\*\*\*\*\*  
\*\*\*\*\*  
The content of this email (and any attachment) is confidential. It may also be legally privileged or otherwise protected from disclosure.  
This email should not be used by anyone who is not an original intended recipient, nor may it be copied or disclosed to anyone who is not an original intended recipient.  
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Liability cannot be accepted for statements made which are clearly the sender's own and not made on behalf of Network Rail.  
Network Rail Infrastructure Limited registered in England and Wales No. 2904587, registered office Network Rail, Waterloo General Office, London, SE1 8SW.  
\*\*\*\*\*  
\*\*\*\*\*



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

Network Rail  
Town Planning  
1st Floor George House  
36 North Hanover Street  
Glasgow  
G1 2AD

[Redacted]

Planning reference:  
Case Officer: Carlo Grilli

E-Mail:  
[TownPlanningScotland@networkrail.co.uk](mailto:TownPlanningScotland@networkrail.co.uk)

Network Rail ref: 88 2024  
23/04/2024

Dear Sir/Madam,

**FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009: MUSSELBURGH FLOOD PROTECTION SCHEME 2024**

Thank you for consulting Network Rail regarding the above development.

Network Rail has no objections to the Musselburgh Flood Protection Scheme 2024.

As a number of construction traffic routes have been identified as crossing the East Coast Mainline and the Scottish Borders Line, Network Rail would request that the developer ensure that all construction traffic is suitable to use these crossings. Details of all proposed construction traffic should be included in a Construction Traffic Management Plan which should be part of the Detailed Design.

We trust full cognisance will be taken of these comments.

Yours sincerely

[Redacted signature block]

**Subject:** (0361 NO ADDRESS) Objection Letter  
**Sent:** 23/04/2024, 12:09:07  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections

---

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

**Categories:** NO ADDRESS

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23/04/24

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.
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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).

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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.

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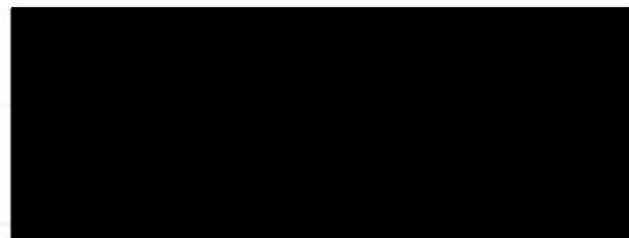
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Please acknowledge receipt of my letter of objection. Please advise me of next steps, and timescales.

Yours Faithfully,

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



21st April 2024.

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

### My objections to the HEPS Scheme.

I know climate change is with us. I appreciate the need to build resilience within our community. I am not opposed to flood mitigation measures per se. Objections in no particular order:

1) The disruption associated with the work to implement the scheme - noise - dust, toxic materials, access restrictions which would last up to 5 years - which would have a negative affect on lives of residents their physical and mental health.

Fisheryrow links? object to these links being turned into a work compound for years to come would have such a detrimental effect on Musselburgh residents and visitors, not to mention the effect on health, physical and mental health.

2) I strongly object to the narrowing of the River - which would increase flood risks. I find this unbelievable to narrow the mouth of the Esk.

3) I strongly object to a new Bridge at Goose Green. This has nothing to do with Flood Protection what so ever and is completely unacceptable, at a time of severe financial restraint on

27

public services, it is an inexcusable waste of public money, this would also destroy the mouth of the River Esk and impact greatly on wildlife.

3) Replacement of the 3 existing bridges is unnecessary on both financial and visual grounds. Another unnecessary waste of money. The disruption to the town, its residents, shops and visitors would be more than terrible, all would have an effect on health and wellbeing. Businesses would suffer greatly - plus the loss of many mature trees and affect our wildlife greatly.

If concerned about trees blocking the river - a tree catcher upriver would solve the problem.

4) Wall at Fisherrow Links - why can't it be the same height all along (1Mtr) shore line could be improved to even up natural growth. I object to wall at Fisherrow links being 1.7m. Why is it heightened at [redacted] which is actually in front of our home. Stretches of concrete walls, with or without artificial stone cladding will provide a canvas for graffiti which is a problem already in Musselburgh, further degradation of the environment of Musselburgh is guaranteed. There are two sets of 21 steps which are now covered and hidden by sand - this was the way down to the beach many many years ago - could they not be uncovered, sand removed as in days gone by.

3. Would this not help flood defences and be more inline with the natural environment  
We in days gone by, needed to jump down onto the beach if not using the steps

5. Object to an embankment with shrubs etc., on Fishermans links

The thought of Fishermans links being a works compound for years to come fills us with dread and would impact greatly on our lives physical and wellbeing.

Musselburgh is an attractive place to live and visit, The River, the shore, the promenade, the harbour, the Fishermans links all contribute to the health and well being of its residence and visitors alike

The amenity of my home and immediate environment will be negatively impacted both in the short and long term

There is no mention of methods or costs of protecting individual properties, Has this been looked at?

Should the value of our property be adversely affected we fully intend to seek compensation within the terms of the 2009 Flood Prevention Act.

6. Strongly object to any motorised traffic crossing any of the bridges.

W

would like a receipt of this letter.

We realise some form of Flood Protection may be needed so there more we can do to help nature contain the tides

Yours sincerely

[Redacted signature]

Yours sincerely,

[Redacted signature]

[Redacted signature]

Hand Delivered

EAST LOTHIAN COUNCIL  
RECEIVED  
23 APR 2024  
LEGAL & PROCUREMENT

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

ELC  
CUSTOMER SERVICES  
23 APR 2024

**Subject:** (0363) Objection Letter  
**Sent:** 23/04/2024, 12:13:39  
**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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23/04/24

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

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Yours Faithfully,

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

EAST LoTHIAN COUNCIL  
RECEIVED  
23 APR 2024  
LEGAL & PROCUREMENT



22<sup>nd</sup> April, 2024

Dear Sir/Madam,

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

My main concern is whether such an extensive scheme is even necessary in the town. There is rarely flooding here and the coastline has never flooded. I live on the shore and there has only been flooding once in well over 30 years and that was because of badly maintained drains.

Whilst in other areas of Scotland, flooding has increased, river level data for the Esk has not changed significantly in the last 30 years. Surely, this is reason enough to collect more data on the Esk's levels over the next 5 to 10 years. Thus, a clearer picture of the impact climate change might have on the Musselburgh area could be gained. Hopefully, this would lead to a more careful

assessment of alternative, more effective and environmentally-friendly approaches to flood protection being made.

Other concerns include:

- the flood risk modelling data has not been reviewed by independent experts
- the state of the sea walls at The Lagoons has not been reviewed by independent experts
- the loss of various habitats
- the effect of the scheme on the character of Musselburgh and the green spaces in town
- the possible damage to buildings from vibration possibly over 5 years of disruption
- the lack of a 'joined up' approach between councils further upstream which could lead to a more effective and less damaging scheme for Musselburgh.
- a lack of research into Nature Based Solutions

The scheme as it stands will do little, if anything, to improve the town. Sadly, it will destroy the very things that make Musselburgh attractive. Who comes to the coast or takes a walk along the river when all there is to see is an ugly wall?

Yours faithfully,

[Redacted signature]

Carlo Grilli,  
Service Manager - Governance  
Legal Services,

EAST LoTHIAN COUNCIL  
RECEIVED  
23 APR 2024  
LEGAL & PROCUREMENT

East Lothian Council,  
John Muir House,  
Haddington.  
EH41 3HA.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
23/4/2024

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 object to the published scheme for the following reasons.

FIRST OBJECTION: The works and subsequent structure will severely negatively impact my quality of life and mental health, as well as that of the community as a whole. Musselburgh has been my home [REDACTED], and I spend a lot of time on the beach beside our flat and by the river with my family and walking our dog. The scheme will completely change the makeup of the town and reduce the enjoyment we get from having such beautiful features on our doorstep. "People depend on the environment around them for their physical and mental health, and general wellbeing" (Flood Risk Management (Scotland) Act 2009). I include The interaction of impacts of construction during construction that has been noted as major noise and medium level of dust will have a hugely negative impact of our standard of life.

Our flat is so close to the beach, the links and the the river and when it is very quiet we hear the wildlife by the river and enjoy peaceful surroundings.

Second Objection: 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 trees 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.

THIRD OBJECTION: The impact on wildlife, including the colonies of geese and swans that live on the river, as well as loss of biodiversity from the devastating removal of mature trees is a huge concern and seems to be an extremely counterintuitive move when it is known that the presence of trees encourage drainage. As much as possible should be done to not only retain and conserve existing biodiversity, but to encourage and increase it. Nature based solutions should be at the forefront of

this scheme but have been pushed aside in favour of completely unnecessary and over the top plans. No biodiversity net gain has been evidenced. .

FOURTH OBJECTION: Concrete walls will become targets for graffiti and the visual impact of this will have a further detrimental impact on the area. Who is to be responsible for the cleaning of this, and what will the ongoing cost of this be? No maintenance budget has been factored into the scheme.

FIFTH OBJECTION: Disruption to local services and increased noise and traffic pollution. A long-term negative effect on local businesses, increased traffic, roadworks and road closures (in a town already struggling with the sheer volume of traffic it sees daily) leading to a decrease in visitors to the town and inconveniencing local residents for in excess of five years.

SIXTH OBJECTION: The sheer cost of the scheme is absolutely atrocious and has spiralled over the years at a time when East Lothian council have declared a financial crisis. Money would be far better spent on essential services needed now, rather than on something based on the possibility of flooding in many decades to come. We have families forced to access food banks, care homes closing down, services being cut across the board, I'd rather see tax payers money going to alleviate the severe deficit in these types of essential services than on walls for a "might happen in the future" situation. As above regarding mental health, the scheme will create a higher need for services that are already extremely stretched. The knock on effects of the scheme will be far reaching in their negativity.

SEVENTH OBJECTION: Throughout the scheme the consultants have not been subject to challenge or adequate scrutiny and have been allowed to write their own Environmental Impact Report. This absolutely cannot be ethical as bias will definitely have been a factor.

EIGHTH OBJECTION: The removal of natural flood management before the council vote on the scheme in January 2024, and before petition was heard, was not only undemocratic but more importantly in breach of the 2009 Act's requirements.

NINTH OBJECTION: 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.

TENTH OBJECTION: 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).

ELEVENTH OBJECTION: Prematurity of wall along the coast due to lack of Coastal Change Adaptation Plan.

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

THIRTEENTH OBJECTION: There is no beach nourishment plan nor budget for this.

FOURTEEN OBJECTION: 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.

FIFTEENTH OBJECTION: 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.

SIXTEENTH OBJECTION: 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).

SEVENTEENTH OBJECTION: 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.

EIGHTEENTH OBJECTION: 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.

NINETEENTH OBJECTION: 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.

TWENTIETH OBJECTION: 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. Reports have been made about several blocked drains over the years but still we see the same ones causing problems any time we have heavy rainfall and is getting worse. I feel like this is a huge issue that needs to be dealt with and should be part of any flood protection scheme.

TWENTYFIRST OBJECTION: 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.

TWENTYSECOND OBJECTION: 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.

TWENTYTHIRD OBJECTION: 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 the river both Eskside east and west. My whole family children and dogs included use this regularly to exercise, socialise A coastal sea defence with limited access and any scheme compound and scheme works will directly impact my ability to continue to do so and disturb my enjoyment of the land. If the scheme proceeds in its present form without amendments I expect to be compensated for the sustained damage as a consequence of exercising my powers under the Act, Section 83 (1).

TWENTYFOURTH OBJECTION: my further interest in the land affected by the scheme and the scheme operations refer to my property which is in close proximity to the areas of work being undertaken. I would request an independent initial survey of our home -paid for by the scheme, prior to any commencement of works and again following completion of work. Prolonged use of heavy machinery, pile driving and any other works that would cause damage to the foundations of the property or any other areas would make this necessary. The works will undoubtedly cause a loss of capital value in the property, and should we decide to sell our property we would be less likely to secure potential buyers due to works lasting for several years.

Please acknowledge receipt of my letter of objection in writing. Please advise me of next steps, and timescales. Under no circumstances must communication be in person. I insist all communication with me going forward should be via email or by post. Yours sincerely [REDACTED] Owner and occupier [REDACTED]



**Subject:** (0366) Musselburgh Flood Protection Scheme

**Sent:** 23/04/2024, 12:55:51

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

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

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[REDACTED]

23 April 2024

I object to the scheme as planned

1. My main objection is the destruction of the natural habitats for wildlife.

I live in [REDACTED], on the promenade and visit Musselburgh frequently.

I am a birdwatcher, and the Musselburgh Lagoons are one of the top birdwatching sites in the UK. East Lothian Council has recently invested in building new hides and totally landscaping an entire additional area. This was done in recognition of what an important site it is. The scheme as planned will utterly destroy many of the local habitats along the river and beyond. The river banks are a haven for wildlife - birds, insects, plants. These will vanish.

2. I live in [REDACTED] - surely it makes more sense to have a joined up plan, taking into account the coastal issue beyond the river mouth? Don't we need natural solutions that address the Lothian coast as a total stretch, and protect our wonderful nature?

[REDACTED]

**Subject:** (0367) Objection to the proposed Musselburgh Flood Protection Scheme 2024.

**Sent:** 23/04/2024, 13:16:56

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

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

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**23rd April 2024**

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

Dear 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 signature]

[Redacted contact information]

Sent with [Proton Mail](#) secure email.

**Subject:** (0368 NO ADDRESS) Objection: Musselburgh flood prevention scheme

**Sent:** 23/04/2024, 13:18:46

**From:** [REDACTED]

**To:** Musselburgh Flood Protection Objections

**Follow Up Flag:** Follow up

**Flag Status:** Completed

**Categories:** NO ADDRESS

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I am writing to object to the proposed Musselburgh Flood Protection Scheme 2024 and the siting of the debris catcher and access road.

I am not opposed to debris traps overall but the siting of one in an important environmentally sensitive and well-used amenity area seems very problematic and a poor choice.

I have an interest in the land affected because I regularly ride my horse along the river path beside the Esk which will be destroyed by this project. The stretch leading up to the A1 bridge is teeming with wildlife. I have seen otters and Kingfishers on this stretch of river and the destruction of habitat at this point seems unnecessarily harmful to both wildlife and those who use the country park for leisure and fitness purposes. There are frequent brown hare sightings here as well as plenty of birdlife including species which have seen dramatic decline in recent years.

The loss of this bridle path is not spelled out clearly on the plans. There is also a well-used river crossing which will be obliterated by the planned development making access for leisure purposes to both sides of the river on horseback impossible forever.

The number of trees which will need to be removed is not made clear. Having ridden this bridle path for years I am clear that the loss of mature trees will be significant which is surely a net contribution to flooding. Trees are well-known natural flood preventers.

What on earth prevents you from locating the debris collector to the East of the A1 on less environmentally important land? And can you be sure that the siting of a debris collector here or anywhere in this stretch of river will not risk additional flooding upstream thus removing even more areas from public access for much of the time? A path nearby upstream from the site has already become more frequently flooded and eroded. Surely maintenance of any debris collector presents a twofold problem: risk of increasing or shifting flooding elsewhere if it is not regularly cleared or a massive increase in heavy plant types traffic in a valuable amenity area if it is regularly maintained?

The destruction of significant stretches of woodland to construct an access road is a peculiar choice. There is already a more suitable access road along the southern side of the Esk near this point. Why not explore the potential of using Cowpits Road rather than tarmac over a valuable woodland path?

In summary, my reasons for objection to the scheme are:

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 in an area which currently provides an important green space for exercise and wellbeing.

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. Is this in line with any local or national land use strategy? Agricultural land is much needed. The construction and extraction process will disturb and worry the livestock. It will damage and destabilise the fragile high river bank path so has the potential for further damage been properly assessed?

The proposed mitigation plans appear to be very poor.

5/ Flood Risk: is the maintenance any debris traps required properly budgeted for? Council resources available to deal with the blockages in a timely manner will be essential to prevent surrounding areas from becoming severely flooded. The risk of this seems not to have been considered.

6/ Loss of Amenity / Health and Well Being: 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 our health and wellbeing. What consideration has been given to this serious loss of amenity value?

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 sincerely

**From:** [REDACTED]  
**Sent:** 23 April 2024 13:26  
**To:** Musselburgh Flood Protection Objections  
**Subject:** (0369 [REDACTED]) object  
**Attachments:** 2k24 Musselburgh Scheme letter.docx

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

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Sent from my iPhone

[REDACTED]

Carlo Grilli

Service Manager – Governance

Legal Services

East Lothian Council

John Muir House

Haddington

EH41 3HA

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, and an editor of the journal. 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 in November 2023, 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,

████████████████████



**Subject:** (0370 REQUESTING RECEIPT - ACTUAL OBJECT 0352) Re: OBJECTION LETTER  
**Sent:** 23/04/2024, 13:41:21  
**From:** [REDACTED]  
**To:** Musselburgh Flood Protection Objections  
**Cc:** [REDACTED]; Grilli, Carlo

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

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

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Please can I have verification that our objection letter has been accepted and noted,  
I have an out of office for [REDACTED] on Monday 21st and as of this morning a failure from your server.  
We are very aware of the looming deadline.  
Please update ASAP.



## Address not found

Your message wasn't delivered to [mfpsobjections@eastlothain.gov.uk](mailto:mfpsobjections@eastlothain.gov.uk) because the domain [eastlothain.gov.uk](http://eastlothain.gov.uk) couldn't be found. Check for typos or unnecessary spaces and try again.

The response was:

DNS Error: DNS type 'mx' lookup of [eastlothain.gov.uk](http://eastlothain.gov.uk) responded with code NOERROR DNS type 'mx' lookup of [eastlothain.gov.uk](http://eastlothain.gov.uk) had no relevant answers. DNS type 'aaaa' lookup of [eastlothain.gov.uk](http://eastlothain.gov.uk) responded with code NOERROR DNS type 'aaaa' lookup of [eastlothain.gov.uk](http://eastlothain.gov.uk) had no relevant answers. DNS type 'a' lookup of [eastlothain.gov.uk](http://eastlothain.gov.uk) responded with code NOERROR DNS type 'a' lookup of [eastlothain.gov.uk](http://eastlothain.gov.uk) had no relevant answers.

Reporting-MTA: dns; [googlemail.com](http://googlemail.com)

Received-From-MTA: dns; [Redacted]

Arrival-Date: Tue, 23 Apr 2024 03:32:18 -0700 (PDT)

X-Original-Message-ID: <[FF0B29E1-C8FB-4930-AF14-53AE6A9D2830@gmail.com](mailto:FF0B29E1-C8FB-4930-AF14-53AE6A9D2830@gmail.com)>

Final-Recipient: rfc822; [mfpsobjections@eastlothain.gov.uk](mailto:mfpsobjections@eastlothain.gov.uk)

Action: failed

Status: 5.4.3

Diagnostic-Code: smtp; DNS Error: DNS type 'mx' lookup of [eastlothain.gov.uk](http://eastlothain.gov.uk) responded with code NOERROR

DNS type 'mx' lookup of [eastlothain.gov.uk](http://eastlothain.gov.uk) had no relevant answers.

DNS type 'aaaa' lookup of [eastlothain.gov.uk](http://eastlothain.gov.uk) responded with code NOERROR

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Last-Attempt-Date: Tue, 23 Apr 2024 03:32:21 -0700 (PDT)

Regards

[Redacted signature]

Mobile - [Redacted]

On 23 Apr 2024, at 11:32, [Redacted] > wrote:

Please can acknowledgement be made of our lodged objection letter previously sent on the 22nd April 2024.

Regards

Mobile - [REDACTED]

Begin forwarded message:

**From:** [REDACTED]  
**Subject:** OBJECTION LETTER  
**Date:** 22 April 2024 at 09:28:27 BST  
**To:** [cgrilli@eastlothian.gov.uk](mailto:cgrilli@eastlothian.gov.uk)  
**Cc:** [REDACTED]

Good Morning Mr Grilli,

Please find attached our letter of objection for the Musselburgh flood defence scheme.  
Please acknowledge receipt of this letter. Copy to be sent by email/post.

<24\_4\_21\_Flood Objection Letter .pdf>

Kind regards

[REDACTED]  
Mobile - [REDACTED]