

Members' Library Service Request Form

Date of Document	18/10/24
Originator	Ian Chalmers
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Document Title	Musselburgh Flood Protection Scheme MLS report - Appendix A.20

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For Publication

Additional information:

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

For Office Use Only:	
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24 APR 2024

17/4/24

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

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

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

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

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

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

The potential for impacts on heritage assets and their settings caused by the construction, operation and maintenance of the proposed 'upper catchment debris trap' and the adaptation of Scottish Water reservoirs. Has provided limited information regarding these works is provided as part of this consultation and therefore further detail on this requires to be provided. The detail has not been made public. Impacts may, for example, occur on the Dalkeith Palace Inventory Designed Landscape (GDL128) and scheduled monuments including the Eastfield, enclosures and pit alignments, Old Craighall (SM6020), Monktonhall

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

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

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

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

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

both Climate Change Mitigation and also Climate Change Adaptation locally. I think it is important that the Scoping document failed to distinguish between these two aspects of tackling climate change. 'Climate Adaptation: Climate Ready Communities' is one Key Priority Area set out in the Climate Change Strategy, with the specific action (Action 7.5f) to "Progress the Musselburgh Flood Protection Scheme". This project may have a major significant impact on protecting Musselburgh from future flooding that might arise, and become more likely to occur, as a result of climate change. It is however important that this development considers both the greenhouse gas emissions arising during construction and during the operational life of the scheme throughout the entire 'lifespan' of the scheme. Circular economy principles should be incorporated to ensure the long term sustainability of the construction materials proposed, including consideration of the lifetime sustainability of the scheme. There is a lack of natural flood management opportunities being undertaken alongside the River Esk where this would be appropriate to enhance the green network properties of the Esk Corridor and promote natural water management and natural habitat enhancement, such as use of reedbeds / marshland areas. This links to specific actions in our Climate Change Strategy under Outcome 6 ('A Healthy and Resilient Natural Environment and the route to Carbon Neutral'), specifically Actions 6.2b and 6.2e. This would also benefit biodiversity. However, in this respect I feel that the proposed scheme fails to meet these objectives.

Yours sincerely



EAST LoTHIAN COUNCIL
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24 APR 2024
LEGAL & PROCUREMENT

Mr L. Leslie
The Service Manager, Legal Services
E.L.C. Haddington, JOHN MOIR HOUSE
EH41 3HA.



17 April 2024

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

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

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

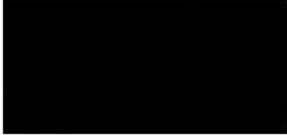
The proposed Goosegreen bridge is a new structure in a completely new location and is not in keeping with the existing ambience of Musselburgh or its aesthetic appeal.

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

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

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

Yours sincerely



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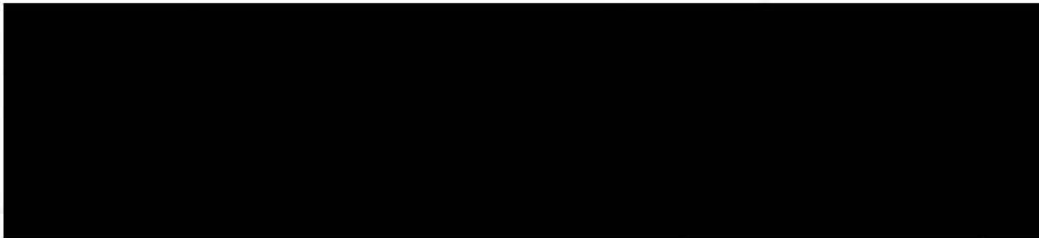
MR. P. GRILLI

THE SERVICE MANAGER, LEGAL SERVICES

ELC, JOHN MUIR HOUSE

HADDINGTON

EH4 3AA



17/4/24

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

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

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

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

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

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

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

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

Yours Sincerely



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CARLOS GRILLI

TITLE SERVICE MANAGER, LEGAL SERVICES

EAST LoTHIAN COUNCIL

JOHN MUIR HOUSE

HADDINGTON

EH41 3HA

EAST LoTHIAN COUNCIL
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24 APR 2024
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Carlo Grilli
Service Manager - Governance
Legal Services
East Lothian Council
John Muir House
HADDINGTON
EH4 3HA

Dear Sir

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

My interest is that

I'm a frequent visitor for leisurely walks along the promenade and by the river.

I object to the published scheme because.

* I don't think that all the prevention avenues were fully researched. I feel that other measures wouldn't be so costly, so unsightly or so disruptive to everyone concerned.


* As a frequent visitor to Hawick I saw at first hand the disruption it caused for years not to mention the infestation of the town by rats!!

* As a taxpayer I strongly object to the cost which will no doubt escalate like the Scottish Parliament, the Edinburgh Trams and the Ferries!

* Musselburgh has a huge Traffic congestion problem at the moment, I shudder to think what the construction work would do over a five year proposed period.

I agree that because of Climate Change predictions Musselburgh will need some flood prevention scheme. (like Dumfries where there has been more flooding in The White Sands area than the River Esk in Musselburgh) However I don't believe these huge unsightly walls (a magnet for graffiti) is the answer.

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



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CARLO GRILLI

SERVICE MANAGER - GOVERNANCE

LEGAL SERVICES

EAST LoTHIAN COUNCIL

JOHN MuIR HOUSE

MADDINGTON

EH41 3HA.



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

MUSSELBURGH FLOOD PROTECTION SCHEME 2024

Dear Mr Grilli

I am writing to object to the Musselburgh Flood Protection Scheme. I was born and brought up in [REDACTED] and currently [REDACTED]. I have objections to the scheme as listed below.

Objection 1. I can't understand why there is a need for a sea wall at the moment. Other studies do not support Jacob's assumption of a sea level rise of 86cm, who knows what the sea level rise, if any, will be in the next century. How can you predict with any accuracy what any increase is going to be. In the mean time we will stuck with an unnecessary concrete sea wall and lose nearly all access to our beach. The Council have given no consideration to natural flood management options.

Objection 2. Building concrete walls along the river Esk and excessive cutting down of beautiful healthy mature trees, thus damaging a lovely nature based asset.

Objection 3. I object to Musselburgh Active Toun which has been incorporated without any benefit to the Flood Protection Scheme. Replacing bridges and building paths 5 metres wide which should require planning permission and seemingly at a cost of £47m according to MAT.

Objection 4. As a taxpayer and resident I strongly object to my taxes being used to fund such an unnecessary flood scheme when Council cut backs are seriously decreasing the quality of life in my town. Many of us can remember when Musselburgh was a well run town, sadly that is no longer the case.

Please acknowledge receipt of this letter of objection.

Yours sincerely [REDACTED]

[REDACTED]

[REDACTED]

EAST LoTHIAN COUNCIL
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Mr C Grilli
Service Manager - Governance
Legal Services East Lothian Council
John Muir House
Haddington
East Lothian
EH41 3HA

Tel [REDACTED]

Tel [REDACTED]

Tel [REDACTED]

14/4/24

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

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

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

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

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

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

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

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

Yours sincerely

[REDACTED SIGNATURE]

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



Tel [REDACTED]

Tel [REDACTED]

Tel [REDACTED]

17th April 2024

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

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

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

[REDACTED]
[REDACTED]
Should the proposed MFPS proceed, it is my belief that there will be a considerable period of this period that I will struggle to let my properties due to the disruption caused by the MFPS, that I will suffer a significant loss of income and may even be forced to sell the properties should I be unable to attract tenants at my present level return. It is my belief that the construction of the MFPS could impact my investments and my livelihood and sole source of income. I therefore wish to object to the proposed MFPS.

Yours sincerely

[REDACTED]

[REDACTED]

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

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[Redacted]
Tel [Redacted]

[Redacted]
Tel [Redacted]

[Redacted]

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17th April 2024

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

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

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

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

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

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

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

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

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

Yours sincerely

[Redacted Signature]

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

Tel [REDACTED]

Tel [REDACTED]

Tel [REDACTED]

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17th April 2024

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

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

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

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

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

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

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

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

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

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

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

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

Publishing responses

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

Why Analyse?

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

Reporting Back

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

Reporting how you used the analysis

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

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

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

Yours sincerely



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

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15th April 2024

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

I wish to object to the proposed Musselburgh Flood Protection scheme

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

Yours sincerely



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

EAST LoTHIAN COUNCIL
RECEIVED
24 APR 2024
LEGAL & PROCUREMENT



15th April 2024

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


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

The Flood Risk Management (Scotland) Act 2009 states that: natural solutions are best practice.
The proposed MFPS is the antithesis of this.

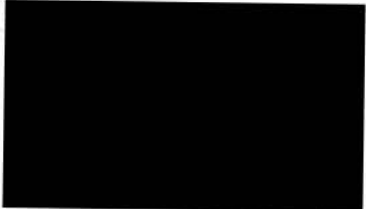
The proposed design for the lower parts of the river in the Goosegreen area results in the effective narrowing of the river Esk towards the river mouth. This results in the requirement for higher defenses to address the increased level of water as it is compressed into a narrower channel to avoid an increased risk from flooding, high tides and exceptional tidal occurrences.

The proposal to reduce the width of the river Esk is completely at odds with the requirements of **The Flood Risk Management (Scotland) Act 2009** to find natural solutions.

I have been in touch with Loretto School that owns the Newfield playing fields at the Esk Mouth. Newfield house, the changing rooms and Newfield playing fields are the areas of Musselburgh most commonly flooded. This area is a natural floodplain.

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

I therefore object to the proposed scheme as it does not meet with the Scottish Governments guidelines that natural Solutions should be a primary consideration. The opportunity to utilise existing an existing natural solution have not been fully investigated.

Yours sincerely 

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CARLOS GRILLI
SERVICE MANAGER
LEGAL SERVICES
ELC
EH14 3HA

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16th April 2024

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

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

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

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

Carried out by:

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

I have lived in the area for [REDACTED] The main attraction of living and renting in Musselburgh is the accessibility to the coastal area. The proposed scheme could impact significantly on my income due to the loss of this asset.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

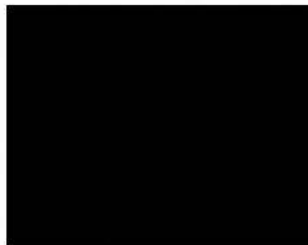
Whilst it is for ELC to define their own monitoring strategy, we recommend a minimum of six-monthly topographic surveys of the available intertidal area, preferably at MLWS. We also recommend continuing to explore the potential for using remote sensing techniques as part of an automated early warning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

Recommendations

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

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

Yours sincerely



EAST LoTHIAN COUNCIL
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24 APR 2024

LEGAL & PROCUREMENT

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

[REDACTED]



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

21st April 2024

Dear Mr Grilli

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

I am a Musselburgh resident and regularly enjoy the amenities offered by the River Esk and sea front. I volunteer with East Lothian Council Countryside Department as a [REDACTED] along the river and seawall and as a Friend of Levenhall Links.

I object to the published scheme because of

Loss of Amenity

I will lose my physical connection to the river.

Mature trees will be lost

Flood walls will destroy amenity and Musselburgh's long connection with river and sea

Lack of Natural Flood Management

Nature based solutions to slow the flow of the river and to encourage natural dune systems along the coast would give us breathing space to assess climate change and its effect in Musselburgh. Building concrete walls won't reduce our carbon footprint nor will it build a sustainable future.

The inclusion of Musselburgh Active Travel (MAT) proposals

A new Goosegreen bridge does not offer flood reduction benefit nor replace an existing crossing.

Yours faithfully

A large black rectangular redaction box covering the signature area.A smaller black rectangular redaction box covering the name area.

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Service Manager - Governance,
Legal Services

East Lothian Council
John Muir House

Maddington
EH41 3HA



15th April 2024

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

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

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

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

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

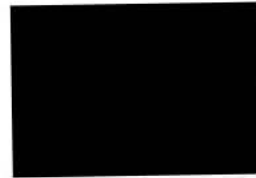
I therefore object to the proposed scheme as it does not meet with the Scottish Governments guidelines that natural Solutions should be a primary consideration. Natural solutions have not been fully investigated.

Yours sincerely



EAST LoTHIAN COUNCIL
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24 APR 2024
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Caris Gilli
Service Manager
Legal Services
East Lothian Council
Haddington EH41 3HA



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

23 April 2024

Hand delivered

Dear Mr Grilli,

Regarding: Objections to the Musselburgh Flood Protection Scheme

As a tax payer I am writing to object to an aspect of the Musselburgh Flood Protection Scheme which shows that the public is being misled about the visual appearance of the flood defence walls.

The public is being misled by the photomontages in the Non-technical summary of the EIA. There are no photomontages of the west bank of the Esk on sections where the flood defence wall is proposed, starting at the Olive Bank Bridge down to the mouth of the Esk. In contrast, there are several photomontages showing the east bank of the Esk, and a few show the ramps leading up to the top of the flood defence walls on the west side. But the latter do not show the height of the walls down to the river bed.

See Non-technical summary in the EIA: <https://www.musselburghfloodprotection.com/wp-content/uploads/2024/03/MFPS-EIA-Report-Non-Technical-Summary-FOR-ISSUE.pdf>

More specifically, from the Electric Bridge down to the mouth of the Esk there are no photomontages of the flood defence walls on **either** side of the river except for the one mentioned below. The walls are up to 3.0m, possibly higher in places, from the river bed up to the top of the walls, although the lower parts of the wall would be covered by water depending on the river and tide level.

The one exception regarding the misleading photomontages of the west side of the Esk is in Newsletter No 5 which shows the wall on the west bank of the Esk in the far distance, beyond the proposed Goose Green Bridge. At such a distance it is difficult for the viewer to see how high the wall is.

I have also seen magazine articles which show this biased selection of photomontages. For example, see Scottish Housing News 26 January 2024. The walls on the west side are so high that people in wheel chairs, pre-teen children and people sitting on a bench beside the path, will not get a view of the river.

See <https://www.scottishhousingnews.com/articles/musselburgh-approves-outline-flood-protection-scheme-design>

A recent article in the East Lothian Courier includes 14 photos of the scheme, none on which show the sections of the Scheme with high walls.

<https://www.eastlothiancourier.com/news/24072504.first-look-proposed-musselburgh-flood-defences-look/>

If I have missed any photomontages which show the wall along certain sections of the west bank of the Esk, please let me know in your reply to this Letter of Objection. I may have missed them because there currently are, and have been, thousands of pages of documents to inspect. It is unreasonable to expect the public to look at every page.

I also object to the fact that a person falling off the high walls on the wet-side could seriously injure themselves if they landed on the riverbed, on a rocky shelf or steep slope at the base of the walls, and possibly drown if they fell into deep or fast running water. For health and safety reasons there needs to be a flat shelf on the wet-side covered with soil of a sufficient depth to absorb the impact of a falling person. It also needs to be high enough to stop a falling person landing on deep water at high tide, or being swept away by fast flowing water.

This shelf would provide a safe place for wild birds to roost. Indeed, one of the attractions of the Esk is to watch the amazing variety of bird species getting on with their lives. It is also misleading to show extensive and well-maintained riparian areas covered with shrubs and flower beds, given East Lothian Council have limited resources to maintain these areas. They will also accumulate litter and it is well known that litter begets litter.

Finally, it hardly needs to be said that these hideous walls will be soon covered with graffiti, whatever surface the walls have to prevent this. Merely scribbles spray painted on them will make the eye-sore even worse. And the Council just doesn't have the resources to continuously clean the walls? Just as litter begets litter, so does graffiti beget graffiti.

I shall appreciate acknowledgement by both email and in writing that this Letter of Objection has been received.

Yours sincerely,

[Redacted signature]

[Redacted name]
See address above

Hand delivered,

Carlos Gilli
Service Manager - Governance
East Lothian Council
John Muir House
Haddington
EH41 3HA

