MUSSELBURGH FLOOD PROTECTION SCHEME

Next steps

Gather feedback from public exhibition and review comments, concerns and suggestions → Prepare feedback report summarising project team's responses to feedback → Focussed follow-up events to discuss key issues → Identify any potential objections to the Scheme → Finalise the options, taking into account feedback from all consultation events → Select the proposed 'Preferred Scheme'

Feedback Questionnaires

We would really appreciate if you could take the time to complete a questionnaire to provide your views and comments on the options presented today – your feedback will be taken into account in determining the Preferred Scheme for Musselburgh.

Thank you

Public Exhibition No. 2

A further public exhibition is planned for **Spring/Summer 2020** where we will present the proposed Preferred Scheme for Musselburgh – look out for event adverts nearer the time.

Further Information

If you would like to discuss anything in more detail, please speak to one of the project team.

We are also pleased to have representatives from the following at the exhibition today:

- Scottish Environment Protection Agency (SEPA) Floodline
- Scottish Flood Forum
- East Lothian Council Emergency Planning Team

FAQs

Please pick up one of our FAQ sheets as you leave the exhibition which includes some common FPS questions and project team contact details.

East Lothian Council JACOBS CPE CONSULTANCY Turner & Townsend

Musselburgh
Flood Protection

Colin Beattie MSP,
Constituency Office,
164 High Street,
Dalkeith,
EH22 1AY

Letter Reference	MFPS-LO-0037
Your Reference	N/A
Direct Line	07525 742361
E-Mail	cprice@eastlothian.gov.uk

2 December 2021

Formal response to October 2021 letter with query on natural flood defences

Dear Colin,

This letter is a formal response to your letter to the Scheme dated 13 October 2021 which was further to communications raised by a number of your constituents to you. You have kindly summarised that these concerns are centered on the perceived lack of natural solution within the Preferred Scheme and asked me to clarify whether these perceptions are correct, what natural solutions we have included in the Scheme, and how we will clarify the situation to your constituents.

May I firstly address the delay in providing you with this response? This is due to the process of consultation that we have been undertaking with the town this autumn. We have engaged with a large number of people and this has had a ripple effect of concern from some residents in the town. A small number of individuals have presented queries through many channels – MP's, MSP, Councillor's, and direct queries, along with EIR requests. As reported to the Elected Representatives Briefing on 15 November 2021 this has overwhelmed our systems for response at a time when we were stretched to the limit undertaking the consultations in the first instance. A number of these queries have been very complex and have required significant work in preparing a response. We are however working through them individually and providing a comprehensive response to everyone. We are also providing new information pages for the Scheme Website to try to clarify the project to a wider audience and head-off some of the misconceptions that appear to have arisen in the community.

With the conclusion of this autumn's consultations on 25 November 2021 to Inveresk Area, and a review of all meetings over the past few days, the team are now revising the Scheme Website including its Consultation and FAQ pages and responding to queries received over the past 2 months. For your reference I would like to highlight the scale of the recent Local Area Consultation process:

1. Seven meetings held with individual areas;
2. c.1,200 properties within these areas invited to the meetings;
3. c.1,050 letters of invitation hand-delivered to doorways;
4. c.370 (substantial) doorway discussions on the Scheme; and
5. c.100 people attended meetings.

Overall we consider this to be a major exercise in consultation, and I can confirm that we collected a huge amount of information both in the meetings and also at the doorways. We have logged all of this information and will use it to feed into our Outline Design process. The Council have committed the project team to consult on the Scheme – therefore we now need to review this information and determine next steps.

In relation to your letter, may I begin by acknowledging the gratitude of East Lothian Council for the support of the Scottish Government for the Musselburgh Flood Protection Scheme? The town of Musselburgh has a major flood risk. It is currently understood that there are c.1,250 properties at risk of flooding in the town today, and that this number will rise to c.2,500 within 100 years due to the effects of climate change. We understand that this is the highest concentration of flood risk properties in Scotland. The objective of the flood protection scheme is to reduce that flood risk as soon as possible. The presence of the Scheme on the Scottish Government's Flood Protection Scheme Programme, which allows for funding to be pre-confirmed, gives great comfort to East Lothian Council in advancing such a major, and complex, civil engineering project.

In relation to the Scheme itself, please note that a full and comprehensive Options Appraisal Process (OAP) was undertaken during the previous stage of the project. This looked at all options through which the project could deliver flood risk reduction to the town of Musselburgh. In total around 100 options were considered, and these included many different options for the delivery of flood risk reduction / flood protection including natural / catchment / sustainable flood risk management interventions. It is not considered reasonable to fully present all options within this letter of response, however the project team would like to reiterate a previous commitment (to the public) to publish the 'Preferred Scheme report' in full. This will be achieved through the new Scheme Website before the end of 2021 and you can review this there in due course. We would be obliged if from here forward you confirm to your constituents that they may also view this Preferred Scheme at our website.

The acceptance of the Preferred Scheme concluded the OAP and identified those proposed options / defences as the best combination of options to be advanced to the Outline Design Stage. This clearly identified a line of new physical defences down both sides of the River Esk, and from the mouth of the River Esk to the Magdalene Road Bridge by the Scottish Water Wastewater Pumping at Eastfield. A copy of the Schematic Overview of the Preferred Scheme is provided as an attachment to this letter for your ease of reference. This graphic illustration was printed on the front page of the Musselburgh Courier in January 2020, and has been widely circulated / viewed since.

The project team commenced the Outline Design of the Preferred Scheme during the summer of 2021. The first part of this was the series of consultations just completed. Only now with all consultation inputs collected will the designers at Jacobs commence forming a design. Within that Preferred Scheme the project team confirmed that a new 'physical barrier' was required between the wet side (River Esk or Sea) and the dry side (the built urban environment that is being protected).

During our Local Area Consultations this autumn we have strived to stress that Musselburgh cannot be protected without new 'physical barriers' between those wet and dry environments. It is our current understanding that there are a number of parties / individuals in Musselburgh that are of the opinion that: if we do enough in the catchment then Musselburgh will not require new 'physical barriers / defences / flood walls etc.' in the town. This is simply not correct. It is a concept and / or vision but one that we have already reviewed and assessed using Hydraulic Modelling and through the Options Appraisal Process – it is a concept we can disprove with fact and evidence.

I would like to highlight that the project team are fully knowledgeable with the Flood Risk Management (Scotland) Act 2009 under which a flood protection scheme is advanced. We understand from the Scottish Government's Flooding Policy Team, SNIFFER, SEPA, and other Local Authorities that have advanced schemes – that the ethos of this act is to develop a flood protection scheme containing the best combination of flood risk reduction techniques through a process of consultation. East Lothian Council and this Scheme has tried to advance that ethos from day one. Furthermore we are confident that we have assembled a Preferred Scheme that presents the best blend of 'catchment' and 'sustainable' and 'natural' flood risk management techniques alongside 'traditional engineered' flood defences. I would like to note however, that I have placed these words in quotation marks to highlight that these are not defined terms within the field of flood risk management therefore there is a degree of individual perception associated with each of them so please be careful with their usage – it can be argued that any intervention by society is not 'natural' as it is conceived / designed / delivered by people and not just nature left unmanaged.

The Preferred Scheme contains the following flood risk management techniques which are all required to work together to deliver the intended level of flood protection:

Technique	Example in Scheme	Catchment FRM	Sustainable FRM	Natural FRM	Engineered FRM
Attenuation	Modification of existing Scottish Water Reservoirs upstream in Midlothian on the South Esk	YES – located upstream of town – delivers benefit to town and also length of South Esk	YES – Reuse of existing infrastructure which is repurposed for future years and new needs	MAYBE – the River Esk flow is managed by this reservoir – potential to naturalise through new system	YES
Debris Management	Tree Catcher located across the river by Cowpits, Whitecraig	YES – located upstream of town	YES – Minimise need to remove downstream bridges as tress do not get to town to get stuck in bridges – essential for Grade B listed Rennie Bridge	NO	YES
Conveyance Improvement	Replacement of existing bridges with new structures that do not throttle the flow or have in-stream piers	NO	NO	YES – reduced impact of bridge on river due to removal of in-stream piers	YES
Water Containment	New physical defences along the edge of the River Esk to keep the water in the river	NO	NO	MAYBE – the River Esk is highly engineered / channelised – potential to naturalise	YES

Surface Water Management	New Pumping Stations to collect water trapped behind the new defences	NO	NO	NO	YES
True Natural	Leave the Fisherrow Links coastal foreshore alone – i.e. ensure the emergent sand dunes can continue to develop in future years	YES – in the Firth of Forth outside of the Musselburgh shore	YES – no human involvement required	YES – let nature manage itself to hopefully develop natural coastal defences over coming century's	NO

*FRM = Flood Risk Management.

It is not possible to deliver the flood protection scheme in Musselburgh without all of these flood risk management techniques working together - no one technique alone can achieve the outcome and all other techniques combined cannot remove the need for physical defences in the town (e.g. walls or embankments).

The project team recognise that there is a requirement to improve communication to the town on the Scheme. We have been working hard on this through our new Strategic Communications Plan since the spring of 2021 – our new Scheme Website, for example, is a key part of this plan and only launched since November.

We would however like to highlight that for one major reason we have felt unable to deliver full clarity to the public the recent period – we have not yet achieved a sign-off for the Scheme's Hydrology and Hydraulic Model from SEPA due to the knock-on effects of their cyber-attack in December 2020. Our approach to defining the flood risk to the town has been developed with SEPA and given the scale of that risk to Musselburgh we feel it is essential that there is no ambiguity between us when the definitive flood risk maps are published. We currently understand that this will finally be achieved within the next month.

The following major activities are planned for the next period to engage with the people of Musselburgh and thus draw them into the development of the Scheme design:

Date	**Activity**	**Main Update for Public**
WC06-12-2021	Update of Scheme Website	New Local Area Consultation pages
End of December 2022	Update of Scheme Website	Preferred Scheme being provide
End of January 2022	Publication of Flood Risk Maps – inc. Press Release	Definitive Flood Risk to Musselburgh illustrated – reason for advancement of Scheme
End of January 2022	Newsletter No. 1 delivered	6-pages of A4 delivering an introduction on the Scheme to all properties in Musselburgh / EH21 postcode

Early February 2022	Local Area Consultation Meeting – All Coastal Groups	Summarise autumn meetings – advance consultation on Outline Design
Early February 2022	Local Area Consultation Meeting – All Esk Groups	Summarise autumn meetings – advance consultation on Outline Design
End of March 2022	Full Exhibition / Consultation for the whole town at The Brunton	Summarise Scheme design to date and advance consultation on Outline Design

I realise this is a huge letter and that there is a lot of information within it. I hope that this letter has reassured you that the Scheme's development is under control, and furthermore provided you with enough information to allow you reply to the concerns of your constituents. It is our opinion that the recently held Elected Representatives Briefing was a success – and we are now minded to hold repeat meetings as we move through 2022, perhaps on a quarterly basis.

Finally, I note that your office has confirmed that I may provide an update presentation to the Esk River Improvement Group at its next meeting. I am delighted with this opportunity, and assume that that will further allow me expand the knowledge of others on the Scheme.

Yours Sincerely,

[redacted]

Conor Price
Project Manager
cprice@eastlothian.gov.uk

Minister for Environment and Land Reform
Ministear airson Àrainneachd agus Ath-leasachadh Fearainn
Mairi McAllan BPA/MSP

T : 0300 244 4000
E : scottish.ministers@gov.scot

Scottish Government
Riaghaltas na h-Alba
gov.scot

Cllr Dr Shona McIntosh and Cllr Cher Cassini
John Muir House
Haddington East Lothian
United Kingdom
EH413HA

Our Reference: 202200322547
Your Reference: Flood Risk Management

24 November 2022

Dear Cllr Dr Shona McIntosh and Cllr Cher Cassini,

Thank you for your letter of 1 September 2022 about Musselburgh Flood Protection Scheme. I apologise for the delay in replying.

I will respond to each of the 5 specific areas where you have asked for clarification but first I will set out the roles and responsibilities for the strategic assessment of flood risk and identification of actions to reduce this risk, including how it relates to funding as I think this provides some helpful context for what follows.

The flood risk management planning process set out in the Flood Risk Management (Scotland) Act 2009 is cyclical. Every 6 years, SEPA carries out a National Flood Risk Assessment (NFRA) which identifies areas that are potentially vulnerable to surface, river and coastal flooding for a range of flood probabilities. SEPA, local authorities, Scottish Water and other responsible authorities work closely together to set objectives to reduce flood risk and propose types of action(s) to manage the risks for each Potentially Vulnerable Area (PVA) identified in the NFRA. These objectives and actions are set out by SEPA in Flood Risk Management Plans. Detail on how each of the actions will be delivered, including how they will be funded are then set out by local authorities in Local Flood Risk Management Plans.

Musselburgh was identified as a PVA in the 2011 NFRA and the objectives and actions to manage this risk were set out in the 2015 Flood Risk Management Plans (PVA_10_21_Full (sepa.org.uk)) and 2016 Local Flood Risk Management Plans (local-flood-risk-management-plan (edinburgh.gov.uk) p387).

The Scottish Government provides Sustainable Flood Risk Management Guidance to support the

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Tha Ministearanna h-Alba, an luchd-comhairleachaidh sònraichte agus Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

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Flood Risk Management Planning process but the Scottish Government does not set local flood risk management objectives or choose the actions to respond to these objectives.

To be clear, the Scottish Government does not stipulate a level of risk reduction that must be met, specify the type or physical form of actions, or place limits on what is fundable. This is to ensure that actions are place-based and appropriate. Local authorities can, if they so choose, put forward a Scheme as part of the Flood Risk Management Planning process that includes, or is solely comprised of, nature based solutions if it meets the objectives set out in the Flood Risk Management Plan and is viable.

The role of the Scottish Government in flood protection schemes

Musselburgh Flood Protection Scheme is currently at the outline design stage and has not yet gone through the formal statutory processes which leads to the legal confirmation (or not) of the flood protection scheme. Once the outline design is complete, East Lothian Council will begin the formal statutory process. It is at this stage, that formal consultation will take place with both the community and statutory consultees such as SEPA, SNH etc. The formal consultation provides an opportunity to lodge objections to the proposals, which the Council will then be obliged to seek to address. In the event that the Council chooses to confirm the scheme while there are still outstanding valid objections from certain parties as specified in the Act (for example statutory consultees or those have an interest in affected land) that are unresolved, the decision will be referred to Scottish Ministers, who will then decide whether to call-in the proposals for their consideration. It is only at that stage, should it arise, that the Scottish Government will have a role to play in the process.

Eligible costs

The 2015 Flood Risk Management Plans contained 42 flood protection schemes. SEPA carried out a prioritisation exercise to rank these nationally and in 2016 Ministers and COSLA agreed that 40 schemes would be eligible for grant funding at an 80% intervention rate as long as they remained viable.

I append the letter sent to local authorities that sets out the eligible costs for the prioritised flood protection schemes. In brief, they are the elements of the Project that are directly related to reducing flood risk. How that risk is reduced is a matter for the local authority as discussed above.

Options Appraisal and Nature Based Solutions

As noted above, the Flood Risk Management Plans set out the objectives for flood risk reduction and propose the
type(s) of action to reduce this risk. The local authority must carry out an options appraisal to assess a range of options that may meet the objectives. The output of the options appraisal will be a ‘preferred option’.

The Scottish Government produces options appraisal guidance for local authorities to ensure that a consistent approach is taken in line with HM Treasury Green Book. The most recent version of the guidance was produced in 2016 and is currently being updated to incorporate the latest evidence on social and environmental benefits, and ensure that we are responding effectively to the climate and biodiversity emergencies. This should improve the assessment of nature based solutions as

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standalone options or as a combined option with grey defences.

It is worth noting that the desired standard of protection/ level of risk reduction can be a limiting factor on the type of action taken to reduce risk particularly when climate change is considered. For example, significant sea level rise is predicted around Scotland's coast, regardless of our efforts to reduce carbon emissions. Whilst nature based solutions may not be able to provide the desired level of risk reduction by themselves, they can often be part of a combination of actions through an adaptive approach.

Funding commitment

As part of the 2016 funding agreement, the Scottish Government has committed to funding the 40 prioritised schemes set out in the 2015 Flood Risk Management Plans as long as they remain viable. The commitment from the Scottish Government is that the grant funding for flood schemes is fixed at 80% of costs when scheme costs are confirmed after tender acceptance.

Planning and Biodiversity

Planning Authorities and all public bodies have an existing duty under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity. They also have a duty under the Water Environment and Water Services (Scotland) Act 2003 to protect and improve Scotland's water environment.

Scottish Planning Policy (SPP 2014) outlines current policy principles which should be taken forward through the planning system. With reference to biodiversity and development, it states that the planning system should "seek benefits for biodiversity from new development where possible".

National Planning Framework 4 will signal a turning point for planning and the Scottish Government has been clear that responding to both the global climate emergency and the nature crisis will be central to that. We laid our Draft NPF4 laid in Parliament on 10 November 2021 including proposed new planning policy on nature crisis/positive effects for biodiversity. Alongside parliamentary scrutiny, we ran a public consultation, supported by an extensive engagement programme. We are carefully considering the wealth of information and views expressed during the consultation before we take a final version to the Scottish Parliament for approval this autumn. The current SPP will remain in place until NPF4 is approved and adopted.

Other funding for Flood Risk Management

£8.4 million/yr (20% of £42 million) capital funding is allocated to local authorities across Scotland to deliver the other actions within the Flood Risk Management Plans. The distribution is based on the calculated Annual Average Damages from flooding for each local authority and distributed through the general capital grant.

The general revenue grant also comprises an amount for flooding which is allocated on the basis of the number of properties at risk in each local authority.

The general revenue and capital grant allocations are not ring fenced so it is ultimately up to each local authority to determine how much capital/ resource it wishes to allocate to flood risk management. Local

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authority finance officers should be able to provide more detailed information on local spend. It is not held by the Scottish Government.

Meeting

Thank you for the invitation to meet to discuss Musselburgh Flood Protection Scheme and nature based solutions in more detail. The potential role of Ministers in the statutory process means that I am unable to discuss the development of individual flood protection schemes and so unfortunately I have to decline.

However I do wish to reassure you that the Scottish Government is committed to tackling the nature and climate emergencies and are supportive of nature based/ blue-green solutions to flood risk management where appropriate and possible. I would encourage local authorities to ensure that nature based/ blue-green actions are included in the Flood Risk Management Plans as these are the basis of the entire programme of work nationally for flood risk management, and the basis of future funding discussions.

I hope that this is helpful, however please let me know if I can provide further clarification on any points.

Yours sincerely

MAIRI MCALLAN

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