

EAST LoTHIAN COUNCIL
FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009
AND
THE FLOOD RISK MANAGEMENT (FLOOD PROTECTION SCHEMES,
POTENTIALLY VULNERABLE AREAS AND LOCAL PLAN DISTRICTS)
(SCOTLAND) REGULATIONS 2010 (AS AMENDED)
MUSSELBURGH FLOOD PROTECTION SCHEME 2024

Pursuant to Section 60 and Schedule 2 of the above Act and Parts II, III & IV of the above Regulations, East Lothian Council (the “Council”) proposes to make the above noted Musselburgh Flood Protection Scheme (the “Scheme”). This constitutes a notice under Paragraph 1 of Schedule 2 of the Act and under Regulation 7 of the Regulations.

The Nature and Location of the Scheme

The Scheme operations comprise the construction of flood walls, flood embankments, replacement bridges, reservoir modifications, a debris trap, surface water pumping stations, culverting, repairs to existing structures, erosion protection measures, seepage protection measures, drainage works, landscaping works, road works, accommodation works, environmental mitigation measures, and demolition of existing structures.

The Scheme operations are to be located:

- At Rosebery reservoir on the River South Esk, near the Temple, Midlothian;
- At Edgelaw reservoir on the Fullarton Water and Redside Burn, near Temple, Midlothian;
- On and nearby the River Esk in Dalkeith Country Park, near Whitecraig;
- On and nearby the River Esk in Musselburgh, between Inveresk Estate and the mouth of the River Esk at the Firth of Forth;
- On the Musselburgh Mill Lade, between the Eskmills weir and its discharge into the Pinkie Burn;
- On the Pinkie Burn in Musselburgh, between Pinkie Playing Fields and its discharge into the River Esk;
- On the Musselburgh coast between the mouth of the River Esk and the Brunstane Burn;
- On the Brunstane Burn, between Edinburgh Road and the mouth of the Brunstane Burn at the Firth of Forth; and
- On the Ash Lagoons Seawall in Musselburgh, between the mouth of the River Esk and Morrison’s Haven.

In pursuance of the Council’s functions under Part 4 of the Act, the Council considers that the benefits likely to be derived from carrying out the operations of the Scheme will be to generally reduce the risk of flooding to in the order of 3,200 residential and

non-residential properties in Musselburgh up to, and including, a 0.5% AEP (Annual Exceedance Probability) Flood Event (which is also known as a 1 in 200 year return period flood event) from the River Esk, Pinkie Burn, Musselburgh Mill Lade, and Firth of Forth plus an allowance for climate change.

The Scheme is likely to have a significant effect on the environment and is therefore subject to an Environmental Impact Assessment (the “EIA”). The results of the EIA have been incorporated into an environmental impact assessment report (the “EIA Report”) which is included with the other Scheme documents.

Availability of the Scheme Documents and the EIA Report

The Scheme documents and the EIA Report are available for public inspection from Thursday 21 March 2024, free of charge at the following locations:

- The Brunton Theatre, Ladywell Way, Musselburgh, EH21 6AA during the hours of 10:00 to 16:00 Monday to Friday inclusive, except Friday 29 March 2024 and Monday 1 April 2024;
- East Lothian Council, John Muir House, Court Street, Haddington, EH41 3HA during the hours of 09:00 to 17:00 Monday, Tuesday, and Thursday, 10:00 to 17:00 Wednesday and 09:00 to 16:00 Friday, except Friday 29 March 2024 and Monday 1 April 2024; and
- Dalkeith Library, 2 White Hart Street, Dalkeith, EH22 1AE during the hours of 10:00 to 17:00 Mondays and Fridays, 10:00 to 19:00 Tuesdays and Thursdays, and 10:00 to 13:00 Wednesdays and Saturdays.

The Council uses a website for the purpose of giving information on each scheme proposed by it which is subject to an EIA.

A copy of the Scheme documents and the EIA Report may be viewed online from Thursday 21 March 2024 at www.musselburghfloodprotection.com

Printed copies of the Scheme documents and the EIA Report may be purchased at a cost of £1000. Requests for these, as well as for further information about the Scheme, can be made in writing. We will also consider requests for documents in other accessible formats. Please send any such requests to:

Structures & Flooding, East Lothian Council, Penston House, Macmerry Industrial Estate, Macmerry EH33 1EX.

or via email to musselburghfps@eastlothian.gov.uk

Representations in Respect of the EIA Report

Any person wishing to make any representations about the EIA Report may do so in writing to the Council on or before Wednesday 24 April 2024. Any such representations about the EIA Report which are received by the Council on or before

Wednesday 24 April 2024 will be considered before any decision is made on whether to confirm the Scheme. Such representation must be made in writing to:

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

or via the email address: mfpsobjections@eastlothian.gov.uk

Objections to the Scheme

Any person may object to the Scheme. For an objection to be valid, it must:

- Be made in writing;
- Set out the name and address of the objector;
- Be accompanied by a statement of the reasons for the objection; and
- Be received by the Council on or before Wednesday 24 April 2024.

Where an objector under Paragraph 3 of Schedule 2 to the Act has an interest in any land on which the Scheme is to be carried out or which may be affected by any of the Scheme operations, or by any alteration in the flow of water caused by any of the Scheme operations, that person's objection must include:

- Details of the land in which the objector has an interest; and
- Disclosure of the nature of the objector's interest in the land; and
- Details of which aspects of the Scheme operations affect the objector.

Objections to the Scheme must be made in writing to:

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

or via the email address: mfpsobjections@eastlothian.gov.uk

Process and Possible Decisions

The Council is responsible for taking any decision to confirm the Scheme in accordance with Paragraph 4(1) or 9(1) of Schedule 2 of the Act, whereas the Scottish Ministers are responsible for taking any decisions to confirm the Scheme in accordance with Paragraph 7(4) of that Schedule.

Where the Council receives no valid objections to the Scheme, then the Council must make the final decision to confirm or reject the Scheme.

Where the Council receives a valid objection to the Scheme, the Council must consider the objection and make a preliminary decision to either:

- a) Confirm the Scheme without modification; or
- b) Confirm the Scheme with modifications; or
- c) Reject the Scheme.

Where an objection is received from a relevant objector, who is a person to whom Paragraph 5(6) of Schedule 2 of the Act applies, the Council must notify the Scottish Ministers of the preliminary decision. The Scottish Ministers must then decide whether to consider the scheme or not. If the Scottish Ministers decide to consider the Scheme and valid objections remain, then the Scottish Ministers must cause a Public Local Inquiry to be held.

After considering the outcome of the Public Local Inquiry, the Scottish Ministers must make the final decision to:

- a) Confirm the Scheme without modification; or
- b) Confirm the Scheme with modification; or
- c) Reject the Scheme.

Where the Scottish Ministers decide not to consider the Scheme the Council must hold a hearing to consider the Scheme. Following the outcome of the hearing, the Council must make the final decision to:

- a) Confirm the Scheme without modification; or
- b) Confirm the Scheme with modifications; or
- c) Reject the Scheme.

Notification of the final decision, whether made by the Council or the Scottish Ministers will be given to every person given notice.

Insofar as the Scheme involves “development” as defined by Section 26 of the Town and Country Planning (Scotland) Act 1997, Scottish Ministers must direct that planning permission under Section 57 of the Town and Country Planning (Scotland) Act 1997 shall be deemed to be granted, either upon their confirming the Scheme or following a request by the local authority where they have confirmed the Scheme. The deemed planning permission shall be subject to such conditions (if any) as may be specified in the direction.

For the purpose of Regulation 11(3) of the Regulations, the estimated cost of the Scheme operations proposed to be carried out is one hundred and three million five hundred and thirty-five thousand pounds sterling (£103,535,000).

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

15th March 2024