Development Plan Scheme for Midlothian

Report by Ian L Young, Director Strategic Services

1 Purpose of Report

1.1 The purpose of this report is to seek Cabinet approval for the first Development Plan Scheme for Midlothian (DPSM), incorporating a Participation Statement, under the terms of the Planning etc. (Scotland) Act 2006 and relevant secondary legislation which came into force on 28 February 2009. The proposed DPSM is appended to this report and is required to be published by 31 March 2009.

2 Background

2.1 This report informs Members about the new legislative requirements relating to the publication of development plan schemes and the relationship between the Development Plan Scheme to be published by SESplan for the Strategic Development Plan (SDP) and the Development Plan Scheme for Midlothian which covers both the forthcoming Strategic and Local Development Plans pertinent to Midlothian.

2.2 Legislative background: A development plan scheme (DPS) is to be prepared by each strategic development planning authority and each planning authority. It is a document setting out the authority’s programme for preparing, reviewing and consulting on the SDP (within the city regions) and the local development plan(s) (LDPs) for its area. A Council seminar to provide a comprehensive introduction to the Scottish Government’s Delivering Planning Reform agenda and the secondary legislation published in December 2008 is to be held in March. The Development Planning (Scotland) Regulations 2008 dealing with the form, content and procedures for the new development plans expand on the requirements for the preparation of DPSs and are accompanied by Circular 1/2009, published on 16 February 2009.

2.3 Each DPS is to incorporate a participation statement and, under Section 20B of the Planning Act, is to be updated at least annually. After adopting a DPS, the planning authority is required to publish it, including electronically, place it on deposit in public libraries and send it to Scottish Ministers. Consultation on the DPS is not required and it is not approved by Scottish Ministers.

2.4 The DPS is expected to comprise:
   - the development plans programme including:
     - the proposed timetabling;
     - details of what is likely to be involved at each stage of preparation or review;
   - the participation statement including:
     - an account of when consultation is likely to take place and with whom;
     - its likely form;
     - the steps to be taken to involve the public at each stage.
Regulation 24 of the new Development Planning Regulations requires DPSs to contain a timetable indicating the month in which the planning authority proposes to (1) publish its main issues report, (2) publish its proposed plan, and (3) submit the proposed plan, whether modified or not, to Scottish Ministers.

2.5 The DPS may also usefully include other information such as the current components of the development plan for the area and the programme for preparing and adopting supplementary guidance. However, the latter may only be possible once the proposed plan is prepared (which must specify the intention to prepare supplementary guidance) and could be incorporated into the DPS during its next review.

2.6 The Regulations set minimum standards for publication and consultation requirements but planning authorities are expected to use the DPS to indicate more detailed proposals for engagement, responsive to local issues. It should be noted that neighbour notification of site-specific LDP proposals is required where there is likely to be a significant effect on the use or amenity of the site or neighbouring land. The key agencies who are required to cooperate in plan preparation are also defined in the Regulations; whilst the list only includes external agencies regulated by Scottish Ministers like Scottish Natural Heritage and Scottish Water, the expectation is that internal agencies like Transport Scotland and Historic Scotland would have an equivalent level of involvement. The Regulations also deal with the arrangements for examinations following submission of plans to Scottish Ministers and the findings of such examinations will largely be binding on planning authorities.

2.7 A consolidated Scottish Planning Policy, the first two parts of which were issued in October 2008 as part of the Delivering Planning Reform agenda, stipulates that planning authorities should publish their first DPSs by 31 March 2009. The focus is on the actions required to ensure that up-to-date SDPs and LDPs are in place as swiftly as possible. The processes of engagement, information gathering and assessment are expected to be “proportionate and fit for purpose”. Aspects of plan preparation, such as community engagement, may be contracted out if necessary to ensure speedy plan-making.

2.8 Expectations of Scottish Government: In a letter dated 22 December 2008, the Scottish Government’s Chief Planner set out his expectations as regards the content of DPSs. He states that the Scottish Government no longer intends to set specific timescales for the submission of the first SDPs and LDPs in recognition of the fact that there are varying circumstances across Scotland. Such targets, which are to be ambitious but realistic, are set instead by planning authorities through their DPSs. The letter refers to Section 16(1) of the Act that requires LDPs to be prepared ‘as soon as practicable’ after commencement of this part of the Act, and they are to be progressed quickly even where local plans have been adopted relatively recently. However, the earliest practicable date may be slightly later where LDP timetables are highly dependent on the SDP timetable.

2.9 Further, the letter acknowledges the likely time required to prepare the first main issues reports. This is also expected to vary, important factors being the availability of a robust evidence base (essential for the later examination stage, as well as to inform the development of the spatial strategy), the amount of preparatory work already undertaken and the extent to which new issues have
arisen since the last plan. Similarly, the time taken to progress the plan will depend on the complexity of the issues and the resources devoted to the task. However, the Chief Planner does anticipate that most proposed plans could be published around 9 months after the publication of the main issues reports and that they could be submitted to Ministers within a further 9 months.

2.10 LDPs must be consistent with SDPs. The Circular points out that there should be a degree of twin-tracking between the two tiers of plan preparation in order to ensure that SDP strategies are implemented quickly. Within the four city regions, LDPs are expected to be adopted within two years of SDP approval. The LDP main issues report or proposed plan may be published on the basis of a proposed SDP but an LDP cannot be submitted to Scottish Ministers until the SDP has been approved. The latter may take around a year following submission.

2.11 Strategic Development Plan for Edinburgh and SE Scotland: The Minute of the SESplan Joint Committee Meeting of 26 January 2009 which, amongst other things, approved the DPS for the SESplan area is an item on this agenda. Members will be aware that work on the SDP for Edinburgh and SE Scotland has commenced under the auspices of SESplan with a number of studies being undertaken in line with a project plan. The SESplan DPS presents an indicative timetable for the SDP, based on project planning underway over the past year or so in readiness for the commencement of the new planning system. The SESplan DPS is reflected as far as possible in the DPSM appended to this report.

2.12 The Circular suggests that the nature of engagement will change at different stages of plan preparation. The main issues report stage is identified as the principal opportunity for productively consulting stakeholders and for involving the public. In this respect, the SESplan DPS is complemented by work already underway to prepare a more detailed communications plan with a specific focus on stakeholder workshops in Spring 2009; these will lead to a SESplan Main Issues Report being published around December 2009.

2.13 Midlothian Local Development Plan: Project planning for the Midlothian Local Development Plan (MLDP), which will eventually replace the recently adopted Midlothian Local Plan (December 2008), is now underway but is constrained to a significant extent by the timetable for SDP preparation (refer to para. 2.10 above).

2.14 There is a general expectation that the participation statement contained in a DPS will consider innovative consultation techniques. Planning Advice Note (PAN) 81 Community Engagement – Planning with People sets out best practice in consultation and engagement and, in fact, cites the Commbus – the Community Bus used in Midlothian to publicise the Midlothian Local Plan – as best practice for consideration by other planning authorities. The aim is to make plan-making more open, inclusive and accessible, with people fully engaged early in the process but, at the same time, meeting the objective of speeding up plan preparation.

2.15 The proposed Development Plan Scheme for Midlothian (DPSM) (refer to Appendix 1) introduces the new development plan system to an audience, many of whom have only recently been closely engaged in the preparation and adoption of the Midlothian Local Plan (2008) but including others who are new to the plan-making process. There are many statutory and non-statutory
elements of the reformed planning system that are, however, new to all. The DPSM has been written in as accessible a style as possible and to tie in with the SESplan DPS. One of the main functions of the DPSs is to elicit interest, and to encourage parties to register such interest on a development plan database. A feedback questionnaire is therefore proposed.

2.16 The SESplan Participation Statement meets the statutory requirements, is informed by PAN 81’s best practice recommendations and indeed extends beyond the expectations of PAN 81. A similar approach is taken with respect to the Midlothian Local Development Plan so that the DPSM, which encompasses both, presents a coherent communications strategy.

2.17 Future reviews of the DPS: At the public examination stage, the appointed person or reporter examines whether the planning authority has conformed with, or gone beyond, the requirements of the participation statement that was current at the time when the proposed plan was published. If the reporter is not satisfied, he or she may suggest that further consultation takes place which could significantly extend the plan-preparation timescale. To minimise this risk, it is important that the consultation approach set out in the participation statement is flexible and deliverable. For SESplan, it is likely that the reporter will base his assessment of conformity on the review of the DPS due to be published in the first quarter of 2011. In the case of the Midlothian Local Development Plan, this is likely to be the review of the DPSM published in the first quarter of either 2011 or 2012, depending on progress with the SDP as well as the MLDP.

2.18 Following Cabinet approval, the Development Plan Scheme will be prepared for printing, including any minor editing and design changes as agreed with the Cabinet Spokesperson for Strategic Services, prior to publishing it on or before 31 March 2009.

3 Report Implications

3.1 Resource

The consultation programme set out in the DPSM will need to be funded. It might be necessary to contract consultants to facilitate workshops and other events. The operating budget for SESplan for the financial year 2009/10 builds in an estimate for these costs of £15,000 but this is for the SDP alone and is to be shared across the 6 Member Councils. The operating budget for 2009/10 approved by the Joint Committee, has been recommended to Cabinet for ratification (refer to SESplan update report on this agenda). There is no separate financial provision for this task in 2009/10 with respect to the MLDP. Whilst the Divisional budget should be sufficient to cover the consultation requirements for the current financial year, the requirements for 2010/11 and subsequent years will need to be taken into account during future budget setting.

3.2 Risk

This report contributes towards reducing identified service, Divisional and strategic risks relating to the implementation of the requirements of the Planning Act.
3.3 Policy

Strategy

The preparation of the SDP and MLDP contributes to the achievement of the following Corporate and Divisional priorities:

Corporate Priorities 2008-11:

Objective 1: Supporting healthy, caring and diverse communities where local needs are met; Objective 2: Maximising business opportunities; Objective 4: Conserving and improving Midlothian’s natural environment

Strategic Services Divisional Priorities 2008-11:

- Implement the requirements of the Planning etc. (Scotland) Act 2006
- Commence joint working to prepare the Edinburgh and South East Scotland Strategic Development Plan

In terms of the Single Outcome Agreement, the preparation of the SDP and MLDP will contribute to:

- National Outcomes 1: We live in a Scotland that is the most attractive place for doing business in Europe; and 7: We have tackled the significant inequalities in Scottish society; and
- Local Outcomes 1: We will continue to improve Midlothian’s growing economy; 2: We will make Midlothian a more attractive place for doing business; and 5: We will provide access to quality, affordable housing by delivering affordable homes for rent and sale.

Consultation

Consultation on the DPS is not required under the terms of the legislation but the purpose of the DPS itself is to set out consultation/engagement intentions. The DPS includes a Participation Statement for the SDP and the MLDP which will form the basis for more detailed communications plans. The DPS will be reviewed at least annually to ensure that it accurately reflects the intentions of this Council and SESplan in terms of engagement with all stakeholders. In preparing this DPS, account has been taken of the Council’s corporate guidance on consultation and the National Standards for Community Engagement.

Equalities

Both the SDP and the MLDP will be subject to equalities impact assessment.

Sustainability

Both the SDP and the MLDP will be subject to Strategic Environmental Assessment and will be based upon a sustainable development strategy.

4 Recommendations

4.1 It is recommended that Cabinet:

   a) approves the Development Plan Scheme for Midlothian (Appendix 1) which incorporates (as appropriate) the proposed Development Plan Scheme for the Strategic Development Plan;
b) agrees to publish the Scheme on or before 31 March 2009, place on deposit and submit to Scottish Ministers; and

c) notes that the Scheme has to be reviewed and published at least annually and will continue to reflect the timetable and commitments contained in the Development Plan Scheme for the SDP.

16 February 2009

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