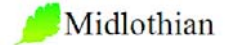


Edinburgh and South East Scotland Strategic Development Plan Joint Committee

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Secretariat 2008



CREATING THE EDINBURGH & SOUTH EAST SCOTLAND SDP JOINT COMMITTEE

Report by Director of City Development, City of Edinburgh Council

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1 INTRODUCTION

- 1.1 This report updates members on the creation of the Edinburgh and South East Scotland Strategic Development Planning Authority and sets out proposals for carrying out its statutory and other duties through a new, permanent joint committee.

2 BACKGROUND

- 2.1 On 28 April, Committee considered a report on the project plan and organisational structure to deliver the first Strategic Development Plan (SDP) for Edinburgh and south east Scotland to the Scottish Ministers' timetable, and
- a) agreed that a small dedicated team be established and interim project co-ordinator appointed
 - b) agreed that the setting up of a dedicated team be confirmed to Scottish Ministers
 - c) agreed that co-location of the team with SEStran be explored
 - d) agreed the draft project plan
 - e) agreed draft project roles and structures
- 2.2 The Strategic Development Planning Authority Designation (No.4)(Scotland) Order 2008 was laid in Parliament on 23rd April 2008. This confirms that the City of Edinburgh, East Lothian, Midlothian, West Lothian, Fife and Scottish Borders

councils are designated a group of planning authorities which are jointly to prepare and keep under review a strategic development plan for a strategic development plan area. The Order will come into force on 25 June 2008. Administrative arrangements can now be put in place to establish the strategic development plan authority and its joint committee. A separate report on this agenda proposed that the Interim Joint Committee disband with its members transferring to the new, permanent joint committee.

3 SCOTTISH GOVERNMENT GUIDANCE

- 3.1 As previously advised, Circular 2/2008: Statutory Guidance on Strategic Development Planning Authorities (SDPA) was issued in April 2008. It sets out how planning authorities should work together to prepare strategic development plans. The process for preparing a SDP and requirements as to their form and content will be set out in future regulations and guidance.

Membership of Committees

- 3.2 Strategic development planning authorities are expected to form a joint committee of members representing the constituent planning authorities. Membership of the joint committee is to be on an equal basis, with the same number of councillors from each authority. Guidance recommends that two councillors from each authority are represented on the SDPA. A joint committee may co-opt additional non-voting members to represent other interests or provide specialist expertise. This could help to ensure integration with other strategies.
- 3.3 Guidance does not specify how councillors should be nominated to sit on the joint committee. The appointment of a chair is also a matter for councils to determine. The chair will have a key role in ensuring that decisions are made.

Decision making

- 3.4 The government envisages that major decisions about the content of the SDP will be ratified by the individual planning authorities. More routine decisions such as responding to consultations may be delegated to the joint committee. It is suggested that this may assist in the speed and delivery of decision making but the level of delegated authority on decision making and spending will be for individual authorities to decide.
- 3.5 Most decisions are expected to be reached by consensus. Where this is not possible in relation to the content of the plan, constituent authorities may set out alternative proposals.

SDP Boundary

- 3.6 Within 3 months of the date of commencement of its designation order the SDPA must submit to Ministers a proposed boundary for the Strategic Development Plan area.

Dedicated Teams

- 3.7 It is the view of Scottish Ministers that dedicated teams represent the most effective way to deliver the plan. It is expected that teams will be small and have a flexible approach which will allow the team to expand and contract to meet the needs of plan preparation. A neutral location is preferable and co-location with other regionwide functions such as transport would visibly emphasise the strategic role of the team. Arrangements are expected to be established by consensus.

4 CONVERSION OF IJC TO SDP JOINT COMMITTEE

- 4.1 On 25 June 2008 the designation order will come into force and the SDPA will be formally constituted. It is proposed that the SDPA be called the Edinburgh and South East Scotland Strategic Development Planning Authority.
- 4.2 It is proposed that its duties will be carried out by a joint committee whose early creation will allow the maximum time for preparation in advance of the development planning regulations coming into force early in 2009. It is proposed that the new joint committee should be named the Edinburgh and South East Scotland Strategic Development Plan Joint Committee.
- 4.3 It is proposed in a separate report that the interim joint committee should disband and its members transfer to form the SDP Joint Committee, having beforehand established approval from their Member Councils.

5 A PROPOSED SDP JOINT COMMITTEE CONSTITUTION

- 5.1 In order to formally establish the SDP joint committee ("the Joint Committee"), a constitution is needed to set out its powers, purposes, principles and operational arrangements. The interim joint committee was set up to as far as possible anticipate the SDPA, so the terms of reference do not need to be changed significantly. A draft constitution has been prepared (Appendix 1) which addresses the governance requirements set out in Circular 2/2008. Its key features are:
- Joint Committee will be advisory only
 - no independent powers
 - 12 members, two from each council
 - additional non-voting members may be co-opted
 - meets at least four times per year
 - Convener, Vice Convener, and secretariat authority rotates annually
 - supported by a small dedicated officers team managed by a project board of senior officers from each constituent authority.
 - decisions by majority vote
 - power to make representations to member councils or the Scottish Government
 - no dedicated budget
- 5.2 The main changes from the Interim Joint Committee constitution are the proposed professional support arrangements, an advisory role in considering referred planning applications and formalised financial arrangements.

- 5.3 Unlike for example the regional transport partnerships, primary legislation does not set out powers of the new SDPAs and there is no indication that secondary legislation will provide any further details on powers. The SDPA will therefore have no power to borrow money, give grants, employ staff, acquire land or enter into contracts. Financial contributions from the constituent authorities to the work of the Joint Committee, including dedicated team staff costs, will be channelled through and managed by one Member Council, to be agreed. As previously agreed, Fife Council will act as employing authority for staff.
- 5.4 The new Joint Committee will be separate from the Edinburgh and the Lothians Structure Plan (ELSP) Joint Liaison Committee which will continue to exist independently until the ELSP is superseded by an approved SDP. Its main functions will be to oversee the ongoing monitoring of the ELSP, in particular its annual housing monitors and housing land audits, and to consider any planning applications referred to it. The ELSP is unlikely to be superseded before 2012.

Scheme of Delegation

- 5.5 The level of delegation to SDP Joint Committees is not prescribed by the Scottish Government. It is envisaged by the Scottish Government that major decisions, for instance about the content of the SDP, will be ratified by the individual planning authorities. The need to make “tactical” decisions quickly to keep the SDP project on track suggests that it would be sensible for some or all of these to be delegated to the Joint Committee, while Member Councils would retain “strategic” decision-making.
- 5.6 The Joint Committee has no delegated decision-making power; decisions require to be ratified by the Member Councils. This requires that Member Councils put in place streamlined arrangements to make decisions outwith their regular cycle of meetings.
- 5.7 Delegation from the Joint Committee to the project board will also require to be set out to ensure that decisions can be taken to allow the project to progress between Joint Committee meetings. The level of delegation can be reviewed as the SDPA matures. The aim is to present a proposed Scheme to the next scheduled meeting in August.

Code of Practice

- 5.8 The four ELSP authorities have a voluntary Code of Practice for planning application referrals. The SDP Joint Committee will have power to adopt standing orders regulating its business. The Joint Committee will also have an advisory role in relation to certain defined types of planning proposals referred to it from member councils. An agreed code of practice would usefully regulate this activity. The intention is to present a proposal to a future meeting.

6 SDP BOUNDARY

- 6.1 The first role of the Joint Committee will be to agree a boundary plan defining the strategic development plan area. The Act requires that a boundary plan be submitted to Ministers within three months of designation as an SDPA. The Designation Orders will come into force on 25 June 2008; a boundary plan therefore requires to be agreed and submitted by 25 September 2008. A separate report on today's agenda sets out a proposed approach to this important statutory duty.

7 CO-LOCATING WITH SEStran

- 7.1 On 28 April, the Interim Joint Committee agreed to explore the option of co-locating the SDP dedicated team with SEStran and asked for a report on a detailed proposal.
- 7.2 Work is underway to develop a formal, costed proposal. Legal discussions with SEStran's landlord suggest that, given the SDPA's legal status and limited powers, one of the Member Councils would need to contract to sub-let space and share facilities in SEStran's offices on behalf of the joint authorities.
- 7.3 It is recommended that in principle the City of Edinburgh Council takes on the role of sub-tenant if required in relation to any co-location proposal. A full report will be presented to the next scheduled meeting in August.

8 STRATEGIC DEVELOPMENT PLAN AUTHORITY IDENTITY

Logo

- 8.1 A proposed logo is being created for use on documents, presentations and a dedicated SDPA web site. It will be able to be adapted for use on a range of communications materials. The final design will be presented for approval at the next meeting.

Web Site

- 8.2 As identified in the Project Plan's Communication Plan, a web site is essential as part of an integrated communications strategy. An interactive web presence will communicate the identity of the new body, its ethos of collaboration and be a one-stop shop for information about the SDPA, its joint committee and the SDP project.
- 8.3 The website will be externally hosted. Site content is being developed and the purchase of a domain name is in progress: www.esessdpa.org.uk

9 RECOMMENDATIONS

9.1 It is recommended that the Committee:

- a) agrees that the SDPA will be named the Edinburgh and South East Scotland Strategic Development Planning Authority (ESESDDPA) and the joint committee will be named the Edinburgh and South East Scotland Strategic Development Plan Joint Committee (ESESDDPJC);**
- b) endorses the draft constitution for the SDP Joint Committee and refers it to Member Councils for approval;**
- c) notes progress on the proposal to co-locate with SEStran;**
- d) agrees that, subject to being able to agree satisfactory terms, the City of Edinburgh Council will assume the role of legal sub-tenant in relation to leasing any office space for the dedicated team on behalf of the Joint Committee; and**
- e) notes further reports on a Scheme of Delegation and a voluntary Code of Practice for planning application referrals will presented to future meetings.**

APPENDICES

Appendix 1: ESESDDPJC Draft Constitution

Background Papers

1. Project Initiation Document 10 April 2008
2. Interim Edinburgh and South East of Scotland Strategic Development Plan Joint Committee Finalised Constitution, 26 March 2007.
3. Report to IESESDDPJC by Director of City Development, City of Edinburgh Council: "SDPA Update and SDP Project Plan", 28 April 2008
4. Scottish Statutory Instrument 2008 No. 198 Town and Country Planning, The Strategic Development Planning Authority Designation (No.4)(Scotland) Order 2008.
5. Circular 2/2008: Statutory Guidance on Strategic Development Planning Authorities, Scottish Government, April 2008

Appendix 1

Edinburgh and South East Scotland Strategic Development Plan Joint Committee: Draft Constitution

1 Strategic Development Planning Authority Duties, Objectives & Powers

1.1 The following planning authorities comprise the Strategic Development Planning Authority (“the Authority”) for the Edinburgh city region: the City of Edinburgh Council, East Lothian Council, Fife Council, Midlothian Council, Scottish Borders Council and West Lothian Council. This group of authorities has a statutory duty under section 4 of the Planning etc. (Scotland) Act 2006 (“the Act”) to work together to prepare, and keep under review, a Strategic Development Plan (SDP) for the Edinburgh city region.

1.2 The statutory duties of the Authority are to

- a) submit to Scottish Ministers, within a period of three months from designation as an SDPA, a plan showing the proposed boundary of the SDP area, with a justification statement, as required by Section 5 of the Act: and
- b) prepare, monitor and keep under review a Strategic Development Plan for the strategic development plan area.

1.3 Its other aims shall be to:

- c) agree programmes of joint working to deal with matters arising from the above;
- d) advise and make recommendations to the six Member Councils on conformity of local plans and local development plans with the Strategic Development Plan and on other issues arising from the statutory duties;
- e) liaise with and make representations to central Government, Scottish Enterprise and other bodies and agencies as necessary on matters of relevance to strategic planning in the SDP area
- f) respond to and comment on structure plans, planning applications and other development proposals submitted to the Joint Committee for comment by adjoining non-Member Councils
- g) receive reports from the Member Councils on development management matters that raise significant issues for strategies in structure plans or the SDP, or would have a significant cross-boundary impact, according to a Scheme to be agreed by Member Councils; and
- h) take such other action as may be necessary from time to time to sustain the policies contained in the SDP.

- 1.4 The Authority is empowered to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of these aims and objectives. Unlike Regional Transport Partnerships, primary and secondary legislation confers no independent powers to SDPAs. Specifically, the SDPA has no legal power to borrow money, give grants, employ staff, acquire land or enter into contracts. Where these are necessary, a constituent council will perform these functions on behalf of the SDPA.

2 The Joint Committee

- 2.1 The duties of the Authority will be carried out by a joint committee of members representing the constituent authorities. This will be called the Edinburgh and South East Scotland Strategic Development Plan Joint Committee (“the Joint Committee”). The following provisions set out a constitution for the Joint Committee.

3 Joint Committee Constitution

- 3.1 The Joint Committee will be advisory only. Its decisions will not be binding on constituent authorities but its advice and recommendations should be considered by those authorities when reaching their own decisions.
- 3.2 The Joint Committee shall have twelve members, to be appointed from the members of the six Member Councils. Each Member Council shall appoint two members to the Joint Committee.
- 3.3 The “constituent authorities” means the City of Edinburgh Council, East Lothian Council, Fife Council, Midlothian Council, Scottish Borders Council and West Lothian Council.
- 3.4 The Joint Committee is separate from, and independent of, the Edinburgh and the Lothians Structure Plan Joint Liaison Committee which will continue to exist until the Edinburgh and the Lothians Structure Plan 2015 is superseded by an approved SDP.

4 Appointment of Members by Member Councils

- 4.1 Each of the Member Councils shall appoint members to the Joint Committee and such members shall stay in office until re-appointed or replaced by the Member Councils. Each of the Member Councils, following an Ordinary Election, shall as soon as practicable appoint or re-appoint members.
- 4.2 A local authority member shall cease to be a member of the Joint Committee when he or she ceases to be a member of the constituent council which appointed him/her or on the appointment of another member in his/her place.
- 4.3 The Joint Committee shall have the ability to co-opt additional non-voting members to represent other interests or provide specialist expertise, for example a representative from the regional transport partnership.

5 Appointment of Convener and Vice Convener

- 5.1 The Joint Committee shall be convened and chaired by one authority and this role will rotate annually as below, starting on 1 January each year.
- 5.2 The Joint Committee shall appoint a Convener and Vice-Convener, from the members representing the Joint Committee that is currently chairing and servicing the Joint Committee, to hold office for the period to 31 December of the following year.
- 5.3 The Convener, (or in his/her absence, the Vice-Convener) shall preside at any meeting. In the absence of (both) the Convener and Vice-Convener, the members shall appoint another member to chair the meeting.
- 5.4 The convenership of the Joint Committee will rotate annually among the Member Councils. The sequence will be determined by the Joint Committee.
- 5.5 The administration of the Joint Committee will be the responsibility of the convening authority. This role will also rotate annually, at the end of each calendar year, in the sequence set out in the preceding paragraph.

6 Substitution

- 6.1 Any member of the Joint Committee may be represented by another member of the same authority.
- 6.2 A person appointed as a substitute shall have the same powers at the meeting as the member whom he or she is representing.

7 Vacancies

- 7.1 Where a casual vacancy occurs the Member Council shall appoint a new member.
- 7.2 Where a vacancy occurs in the case of the Convener, the Vice-Convener shall assume the office of Convener until the anticipated expiry of the outgoing Convener's term of office.
- 7.3 Where a vacancy occurs in the case of the Vice-Convener the Joint Committee shall appoint a replacement until the anticipated expiry of the outgoing Vice-Convener's term of office.
- 7.4 The proceedings of the Joint Committee shall not be invalidated by any vacancy or vacancies amongst members or any defects in the method of appointment of any of its members.

8 Quorum

- 8.1 The quorum of the Joint Committee shall be four, provided that not less than three Member Councils are represented.

9 Meetings

- 9.1 The Joint Committee shall meet not less than four times per year.

- 9.2 The Convener, in consultation with senior officers of the Member Councils, shall fix the date, time and place of meetings, subject to any previous agreement by the Joint Committee.
- 9.3 A member council can request a special meeting in exceptional circumstances where a matter requires to be considered by the Joint Committee sooner than the schedule permits.
- 9.4 Meetings shall be held in public and the Local Government (Access to Information) Act 1985 shall apply.
- 9.5 All matters coming before the Joint Committee shall be decided by the majority of members present and voting thereon. In the case of equality of votes, the person presiding at the meeting will have a second or casting vote, except in the case of appointment of members, in which case the decision shall be by lot.
- 9.6 The Joint Committee, on simple majority, shall have the power to make representations on strategic planning matters and related issues to Member Councils or, where appropriate, the Scottish Government and other organisations. Documents can be published, and evidence given, in the name of the Joint Committee with the agreement of all Member Councils. Individual councils have the right to separately put forward contrary views.
- 9.7 The Joint Committee shall have the power to adopt standing orders regulating its business. Any amendment to Codes of Practice covering referrals must be authorised by all six constituent authorities.
- 9.8 Senior officers of each authority will have the right to submit individual reports and recommendations to the Joint Committee.

10 Professional Support

- 10.1 Professional support for the work of the Joint Committee shall be provided by a Strategic Development Plan Manager and a small dedicated team of officers. The SDP Manager will be managed by a project board comprising senior officers from each of the Member Councils. Its duties shall include agreeing reports to be presented to the Joint Committee.
- 10.2 From time to time, planning officers and technicians in the Member Councils may be required to provide professional and technical support to the work of the small dedicated team.
- 10.3 The Member Councils shall use their reasonable endeavours to meet any request from the Joint Committee or the SDP Manager for the secondment of appropriate/relevant staff to help prepare, monitor and review the SDP. Any such secondment will be on terms as may be agreed between the Member Council and the Joint Committee.

11 Financial Arrangements

- 11.1 The Joint Committee shall have no dedicated budget of its own. Financial support will

be provided by the Member Councils on the basis of an equal, one-sixth share of all costs incurred in relation to the Joint Committee and its operations.

- 11.2 The level of financial devolution will be kept under review by the Joint Committee and can be amended with the agreement of all Member Councils.
- 11.3 For employment law purposes and to aid financial accountability, one SDPA Member Council will act as the employing authority, to be agreed by the Member Councils. The Member Councils will pay to that council one-sixth of the total costs reasonably incurred by it in connection with employing the dedicated team.
- 11.4 Financial contributions from the constituent authorities to the work of the Joint Committee generally, not including dedicated team staff costs, will be channelled through one council, to be agreed by the Member Councils.

12 Scheme of Delegation

- 12.1 The Joint Committee will agree a Scheme of Delegation with the Member Councils. This will define the nature and amount of authority delegated from those councils to the Joint Committee, and from the Joint Committee to officers.
- 12.2 All major decisions, for example about the content of the Strategic Development Plan, will require to be ratified by each of the six constituent member authorities. The level of delegated authority to the Joint Committee from Member Councils, and from the Joint Committee to officers, shall be governed by a separate Scheme of Delegation to be agreed by the councils.
- 12.3 The Scheme of Delegation will be kept under review by the Joint Committee and can only be amended with the agreement of all the Member Councils.

13 Commencement and Variation

- 13.1 This constitution shall be deemed to have commenced on the 27th June 2008 and may be varied only by the agreement of all the Member Councils.

14 Consulting on Planning Proposals

- 14.1 The Joint Committee shall have an advisory role in relation to certain defined types of planning proposals referred to it from Member Councils. The mechanism governing referral and consideration shall be set out in a joint Code of Practice to be agreed and periodically reviewed by the constituent authorities.

15 Annual Report

- 15.1 The Joint Committee will prepare an annual report on its work to each of the Member Councils on or around 31 August each year.