



**AGENDA ITEM NO.**

## Report Cover Sheet

<b>Name of Meeting:</b>	Executive
<b>Date of Meeting:</b>	25 <sup>th</sup> March 2008
<b>Report Title:</b>	Regional Conformity Protocol
<b>Summary of report:</b>	
<b>For Further Information Please Contact (report author):</b>	Philip Clarke Group Leader (Policy, Projects & Conservation)
<b>Would the recommended decision be contrary to the Policy Framework:</b>	No
<b>Would the recommended decision be contrary to the Budgetary framework:</b>	No
<b>Wards of the District directly affected by this decision:</b>	All
<b>Key Decision?</b>	No
<b>Included within the Forward Plan?</b>	No
<b>Is the report Private &amp; Confidential</b>	No
<b>Background Papers:</b>	

## Consultation Undertaken

Below is a table of the Council's regular consultees. However not all have to be consulted on every matter and if there was no obligation to consult with a specific consultee they will be marked as n/a.

<b>Consultees</b>	<b>Yes/ No</b>	<b>Who</b>
Other Committees	No	
Ward Councillors	No	
Portfolio Holders		Cllr. John Hammon
Other Councillors	Yes	
Warwick District Council recognised Trades Unions	No	
Other Warwick District Council Service Areas	No	
Project partners	No	
Parish/Town Council	No	
Highways Authority	No	
Residents	No	
Citizens Panel	No	
Other consultees	No	

## Officer Approval

With regard to officer approval all reports must be approved by the report authors relevant director, Finance Services and Legal Services.

Officer Approval	Date	Name
Relevant Director(s)		
Chief Executive	28/2/08	Chris Elliott
CMT	28/2/08	
Section 151 Officer	28/2/08	
Legal	26/2/08	Simon Best
Finance	26/2/08	Marcus Miskinis
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

## **1. RECOMMENDATION(S)**

- 1.1 That the Protocol (attached as appendix 1) for securing the general conformity of Development Planning Documents and regional significant planning applications with the policies of the Regional Spatial Strategy be supported.

## **2. REASON(S) FOR THE RECOMMENDATION(S)**

- 2.1 Since September 2005, a Conformity Protocol has been in place between the West Midlands Regional Assembly and the Strategic and Local Planning Authority's in the region. The protocol has enjoyed almost Universal sign up from 38 Authorities in the region. Warwick District Council formally agreed to support the Protocol at its meeting in February 2005.
- 2.2 The purpose of the conformity Protocol is to govern arrangements between the assembly and the authorities regarding the assembly's strategic role in providing an opinion of general conformity in relation to the West Midlands Regional Spatial Strategy. This requirement arises when a Local Development Document is submitted for Public Examination.
- 2.3 The Protocol also governs arrangements regarding those planning applications for which the assembly must be notified of as statutory consultee.
- 2.4 In 2005, these two strategy functions were new areas of work to deal with, at that time, the Protocol was very much based on what was thought to be the best way of dealing with this arrangements. The principles behind the protocol were that it should operate in an "open, inclusive and transparent" manner, the simple in approach yet effective, and also recognise the capacity limitations of the assembly's secretariat, the regional planning partnership and the local planning authorities in the region.
- 2.5 Whilst the Regional Assembly considers that the protocol has worked well, it has become clear to it that in practice there are a number of areas where it could be potentially be improved and made clearer. On this basis, the Regional Assembly has now approved a revised protocol, and it is asking all local planning authorities in the West Midlands to adopt the Protocol within their organisations.
- 2.6 The changes that have been agreed for the Protocol are largely procedural, however their purpose is to make the protocol more manageable, both for the Regional Assembly itself, and for officers within the various Local Authority's seeking to engage with it. Included within the changes to the Protocol, the following should be noted.
  - The Criteria for regionally significant planning applications has been changed to make it easier for Local Planning Authorities to follow. The thresholds have also been revised upwards so that less significant applications need not be sent to the Regional Planning Body for comment.
  - Clarification has been provided how the Regional Assembly should conduct itself at Public Examinations and Enquiry's following instances when an opinion of general conformity has been issued.
  - Greater flexibility has been given to the conformity advisers who advise the regional planning body on conformity issues. Under the new arrangements, there is less need to refer matters to the regional planning executive/partnership. That has been the case in the past.

- 2.7 In January 2008, having itself approved the revised conformity protocol, the West Midlands Regional Assembly wrote to all Local Planning Authorities in the Region to request that we seek member approval for these new arrangements. As with the previous conformity protocol (issued in 2005), I am happy to recommend to members that the Conformity Protocol be accepted. Whilst the Conformity Protocol is detailed and may appear some what mechanistic, it does provide a useful framework to help Local Planning Authorities and the West Midlands Regional Assembly liaise on Regional Planning matters. It is also helpful in alerting Local Authorities of occasions when the regional assembly would wish to be consulted on any planning application.

### **3. ALTERNATIVE OPTION(S) CONSIDERED**

- 3.1 None. The existing protocol has been in place for approximately 3 years and has generally operated very successfully. It is reasonable, however, for the Regional Assembly to consider in the light of the experience how it can be made to operate more effectively. It does of course remain open to the Regional Assembly to amend the protocol yet further in the light of subsequent experience, and it may be that changes may come forward as a result of practical experience in the future. If these are significant they would be brought back before members for consideration in due course.

### **4. BUDGETARY FRAMEWORK**

- 4.1 There are no budgetary implications arising from agreement to this Protocol.

### **5. POLICY FRAMEWORK**

- 5.1 The council has a statutory duty to prepare Local Development documents and deal with Planning Applications within the context of the Regional Spatial Strategy.

**WEST MIDLANDS REGIONAL SPATIAL STRATEGY**

**Conformity Protocol**

Between

**The West Midlands Regional Assembly  
(as the Regional Planning Body)**

And

**The Strategic and Local Planning Authorities**

Of

**The West Midlands Region**

**Approved by the Regional Planning Partnership on 24 September 2007**

# **Conformity Protocol**

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## **1.0 Introduction to the Conformity Protocol (the Protocol).**

- 1.1 The Regional Assembly is the Regional Planning Body, a role statutorily created and conferred on it by the Planning and Compulsory Purchase Act 2004 (the Act). The Act requires Local Planning Authorities to request the opinion, in writing, of the Regional Planning Body as to the **general conformity** of a Development Plan Document with the Regional Spatial Strategy when they are submitting a Document for independent examination to the Secretary of State. Local Planning Authorities can also make a similar request to the Regional Planning Body with regard to any other Local Development Document that they produce.
- 1.2 Additionally, the Act makes the Regional Planning Body a statutory consultee on planning applications submitted to Local Planning Authorities. The applications to be sent to the Regional Planning Body are those that are considered to be of major importance to the implementation of the Regional Spatial Strategy (i.e. regionally significant planning applications).

## **2.0 Objective.**

- 2.1 The objective of this Protocol is to provide an agreed mechanism in which the Regional Assembly can deal with the statutory requirements now bestowed upon it as described above. This Protocol defines the working relationships between all the Authorities within the West Midlands Region who have a statutory planning function.

## **3.0 Principles underlying the Protocol.**

- 3.1 **One** – the Protocol provides a framework for open and inclusive partnership working between the West Midlands Regional Assembly and the Region's Planning Authorities.
- 3.2 **Two** - the Regional Planning Body will ask for a Strategic Authority's opinion on general conformity issues. Through a series of Partnership Agreements, the Region's Strategic Authorities will provide professional advice to the Assembly where this is required or requested. This advice will be provided at a sub regional level in the following groupings:
  1. Within the four Shire Counties, via the scrutiny of their respective District and Borough Councils' Local Development Documents and planning applications;
  2. Within the seven Metropolitan Authorities, by mutual scrutiny through the existing Chief Engineers and Planning Officers Group (CEPOG) arrangements by local authority officers of the Principal Assistants' Group providing the technical advice with a Conformity Co-ordinator supporting the process; and
  3. Within the three Shire Unitaries, via scrutiny of each others Local Development Documents and planning applications.

Within these three groupings, there are a number of Officers from the Strategic Authorities who will act as Regional Conformity Advisors. In the case of the Metropolitan Authorities CEPOG are collectively the Regional Conformity Advisor.



Detailed guidelines on how the latter two groups operate within the scope of this Protocol are available in the [Reference Documentation](#) that accompanies the Protocol..

- 3.3 **Three** - the exception to these arrangements will be for Minerals and Waste Local Development Documents as well as planning applications for this type of development. They are scrutinised by a regional panel of technical officers reporting direct to the Regional Assembly. Again more detailed guidelines on how this operates are available in the accompanying [Reference Document](#).
- 3.4 Up to date details of the Regional Conformity Advisors and their geographical areas of responsibility are provided on the Assembly's [website](#) as are details of the Mineral and Waste Planning Authorities in the Region and contacts for the Minerals and Waste Conformity Panel. The detailed roles and responsibilities of the Regional Conformity Advisors, the WMRA Secretariat and its Members, as well as the Region's Local Planning Authorities are described in Appendix A.
- 3.5 All formal conformity decisions will be made by a Conformity Panel of Members of the Assembly through delegated powers. Further details of this Panel and the decision making process are set out in Section 6 of this Protocol.
- 3.6 All parties that are signatories to the Protocol will operate in accordance with the Planning and Compulsory Purchase Act 2004, the Freedom of Information Act 2000, and will use their best endeavours to comply with agreed and / or statutory timetables/requirements.

#### **4.0 Scope of the work covered by the Protocol.**

##### **Role of Local Authorities**

#### **4.1 Development Plan Documents – formal requirements**

The Planning and Compulsory Purchase Act 2004 Act requires Local Planning Authorities to request the opinion, in writing, of the Regional Planning Body as to the **general conformity** of a Development Plan Document with the Regional Spatial Strategy when they are submitting a such a Document for independent examination to the Secretary of State. Such opinions are only issued following consideration by Members of the Assembly who have been given delegated powers to make a response.

#### **4.2 Development Plan Documents – provision of informal advice during preparation**

Prior to a Development Plan Document being formally submitted to the Secretary of State, there will be periods of public consultation as it is being prepared. There are two stages of consultation where the Regional Assembly are encouraged to assist Local Planning Authorities:

- One is developing the evidence base which is often expressed through the production of an Issues and Options document;
- The second is in relation to a Preferred Option prior to Submission.

An underlying aim of this Protocol will be to ensure that informal officer advice is given to Local Planning Authorities on matters relating to conformity with the Regional Spatial Strategy at these earlier stages of a Development Plan Documents preparation.

#### 4.3 Supplementary Planning Documents

Local Planning Authorities can also make a request to the Regional Planning Body for an opinion of general conformity with regard to any other Local Development Document that they produce.

With regard to Supplementary Planning Documents, the Regional Assembly will not give an opinion of general conformity unless the Local Planning Authority producing it specifically asks for one or, alternatively, if the Assembly judges it to be of regional significance.

#### 4.4 Regionally Significant Planning Applications

The Assembly's advice regarding regionally significant planning applications will be considered on whether the application will prejudice the objectives and/or policies of the Regional Spatial Strategy as the test of general conformity with the Strategy. With the Regional Spatial Strategy being classified as a "Development Plan", all planning applications should be in accordance with the relevant Development Plan(s) unless other material considerations apply.

4.5 The Act has given the Regional Assembly a degree of flexibility to establish its own criteria for determining the type of development on which it wishes to be consulted. The criteria adopted by the Assembly to determine regionally significant planning applications are set out in [Reference Document D](#).

4.6 It is the responsibility for the Local Planning Authorities to consult the Regional Planning Body, if there is a situation where a planning application has been determined and it transpires that it was one that the Assembly would have been consulted on, it is the responsibility of the determining Authority to justify why it was not sent to the Assembly.

#### 4.7 Joint or cross boundary Development Plan Document

Where a Joint Development Plan Documents is prepared between Local Planning Authorities the responsibility for assessing the Document shall rest with the Regional Conformity Advisor whose geographical share of the Document area has the greatest population. Should a regionally significant planning application cross Local Planning Authority boundaries the advice to the Regional Assembly shall be undertaken by the Regional Conformity Advisor with the largest area of the site within their geographical responsibility.

4.8 If a regionally significant planning application is sent to the Assembly by an Authority that is also the Regional Conformity Advisor for that area (i.e. a County Council) then the nearest adjoining County Council Regional Conformity Advisor to the application under consideration shall provide advice to the Assembly.

### **Role of the Regional Assembly**

#### 4.9 The Regional Assembly's role once an opinion or consultation response has been sent to a Local Planning Authority

After the Regional Assembly has given its formal opinion or advice to a Local Planning Authority under its statutory duties, there will from time to time be occasions where it will need to be involved or represented at Public Inquiry or Public Examination in order to explain or defend its views. Section 7 of the Protocol details how such situations will be dealt with by the Assembly.

#### 4.10 Consultation with neighbouring Local Planning Authorities outside of the Region

There will be occasions when the Regional Assembly is consulted on both Development Plan Documents and planning applications by a Local Planning Authority from an adjoining Region. In such circumstances, the WMRA Secretariat will liaise with the adjoining Region and the most relevant Regional Conformity Advisor to seek their advice.

## **5.0 Preparation of advice by the Regional Conformity Advisors and Minerals and Waste Conformity Panel.**

### **5.1 Initial consideration and internal consultation**

The following section provides a brief synopsis of how the Regional Assembly will handle a consultation once it receives one for its advice. It then describes the steps taken before a Conformity Assessment is produced by the Regional Conformity Advisor (including Assessments produced by the Minerals and Waste Conformity Panel). The process described below is summarised in the flow chart labelled Table 1.

5.2 In respect of planning applications and pre-application enquiries, the Regional Assembly shall not consider the consultation to have been received until both the Assembly and the Regional Conformity Advisor have the necessary documentation as set out in the Assembly's [pro forma](#).

5.3 A timetable will then be agreed with the Regional Conformity Advisor or Chair of the Minerals and Waste Panel as to when a Conformity Assessment should be submitted to the WMRA Secretariat. Following this the Secretariat will then notify the other Regional Conformity Advisors, RSS Policy Lead's, the Assembly's Strategic Advisors. Notification that the Assembly has received a Document or regionally significant planning application will include a date by which comments should be made to the relevant Regional Conformity Advisor and include details of where further information can be found.

5.4 Details of the documents and applications currently being considered (along with the timetable for consultation) will be presented on a weekly basis on the Regional Assembly's [website](#). Details will be provided on the consultation, where details can be found (if available) and the date by which persons can forward any views to the Regional Conformity Advisor in respect of general conformity with the RSS.

5.5 RSS Policy Leads will also be notified but they are not expected to provide advice to the Regional Conformity Advisor unless this is specifically requested by the Advisor. In such circumstances, the Regional Conformity Advisor should do this promptly in order to give the Policy Lead sufficient time to consider and prepare their advice. In any case where an officer has a dual role (e.g. Regional Conformity Advisor and Policy Lead) they should, when responding to a consultation, make it clear in which capacity they are making their response.

5.6 All other Regional Conformity Advisors will be informed of the consultation and will have the right to submit views where there are relevant considerations relating to their geographic area.

5.7 Where additional or supplementary information is received in respect of a regionally significant planning application then it may be necessary to reconsult if the

information is considered to be material to the issue of general conformity with the Regional Spatial Strategy.

- 5.8 All persons involved in providing or producing advice to the Assembly in respect of conformity with the RSS shall be subject to the [Officers Code of Conduct](#).

5.9 Representations by third parties

Where the Regional Conformity Advisor or the Regional Assembly receive any views from a third party, then these will be forwarded to the relevant Local Planning Authority if they have not already received a copy and the author notified of this fact.

5.10 Informal 'pre-Submission' advice

In respect of consultations at the Issues and Options and Preferred Options stage, where informal advice is sought from the Regional Conformity Advisor, coming to a clear conclusion may be less clear cut. In such instances, the advice provided by the Regional Conformity Advisor should specify whether the Local Development Document is moving towards a future opinion of general conformity or not. Where it is not, the relevant parts of the Document or Policies within it should be highlighted, with recommendations for the Local Planning Authority as to what should change or be included so that the Document can move towards general conformity with the Regional Spatial Strategy.

5.11 Provision of a Conformity Assessment

The Regional Conformity Advisors advice will take the form of a written assessment documenting issues raised, opinions submitted and considered along with an evaluation that comes to a conclusion. The preferred method of providing an assessment is for the Regional Conformity Advisors to use a [pro forma template](#) provided by the Regional Assembly. The Conformity Assessment needs to include any views received and will also be required to demonstrate that these views have been taken into account in determining the final advice. Ultimately though, it is the Regional Conformity Advisors judgement that governs the final advice to the Assembly for their subsequent consideration.

- 5.12 Further guidance and best practice will be developed by the WMRA Secretariat with the Regional Conformity Advisor's to ensure a level of consistency across the Region and also to reflect ongoing changes as a result of Revisions to the Regional Spatial Strategy, any Government guidance or advice from the Planning Inspectorate.

5.13 Repeat or similar planning applications

Should the consultation relate to a planning application on which the Regional Assembly has already commented on, then the WMRA Secretariat will seek the views of the relevant Regional Conformity Advisor. If the Regional Conformity Advisor states that their earlier advice remains unaltered, then that view will be forwarded to the Chair of the Conformity Panel for consideration.

**6.0 Making a decision on the advice received.**

- 6.1 Where a Conformity Assessment relates to a consultation on a pre submission Development Plan Document or a pre-application enquiry, it shall be sent to the

WMRA Secretariat who will reply to the Local Planning Authority on behalf of the Regional Assembly and this will represent informal Officer advice.

- 6.2 The WMRA Secretariat will review the assessment to ensure there is clarity and consistency in the advice provided by the Regional Conformity Advisors. In relation to formal views this will be undertaken by the Secretariat before presenting it to those Members of the Assembly with delegated powers (as described below) for their consideration.
- 6.3 In the first instance all Conformity Assessments will be presented electronically by the WMRA Secretariat to a Conformity Panel who have been established to undertake this role (i.e. acting as a sub committee of the Assembly Board). The Protocol under which the Conformity Panel operates is available via the Assembly's [website](#). It defines the principles by which Members will come to a decision on the formal response to a consultation following receipt of a Conformity Assessment by the Regional Conformity Advisor. This process is summarised below and in the flow chart labelled Table 2.
- 6.4 The RPB has a duty to respond to such consultations within certain timescales, which, in respect of planning applications, is extremely limited. So that the RPB can deal with the random nature of such consultations and meet the tight timescales stipulated it has decided to delegate responsibility to the Regional Planning Executive (RPE) utilising a mechanism of a Conformity Panel of RPE members to deal with conformity issues, notwithstanding that any conformity matter may be referred for determination at any time to the full Regional Planning Partnership which has overall responsibility for the Assembly's Regional Planning Body function as delegated by the Assembly Board.
- 6.5 The Panel will comprise of four members with the Chair and Vice-Chairs of the RPE as core members with nominated alternates, agreed by the RPE, to participate in Panel proceedings in the event of any of the core members being unable to participate. In exceptional cases of urgency any other member of RPE can fulfill an alternate role in any particular meeting of the Panel. The occasions when alternates will be called upon will include non availability of core members for business or personal reasons or where the core member has a prejudicial interest in the matter to be determined.
- 6.6 If a meeting of the Members of the Conformity Panel is required, then the relevant Regional Conformity Advisor should attend that meeting to present their Assessment to the Panel. If they are unable to present their Assessment, they should ensure a substitute is made available on their behalf. If there is a difference of view on the final recommendation of general conformity between parties in the determination of the Regional Conformity Advisors advice, such parties (i.e. those Policy Leads or Registered Assembly Contacts who made representations) will also be invited to attend to present their views.
- 6.7 There will be occasions when a consultation will need to be referred by the Conformity Panel up to the Regional Planning Executive or the Regional Planning Partnership for a decision.
  - Where there are outstanding issues within the conformity assessment regarding the advice given to the RPB;

- If the Conformity Panel do not agree with the advice within the assessment provided to them;
- Where the Conformity Panel considers the matter to be of such significance to warrant referral;
- If the Conformity Panel cannot provide the required majority agreement on a view (i.e. at least 3 votes to 1).

In such circumstances, all those who made representations in the Assessment shall be given the opportunity to present their views to the relevant meeting. This shall include the Regional Conformity Advisor and, where the consultation is a Local Development Document, the Local Planning Authority.

- 6.8 In respect of consultations received from Local Planning Authorities in adjoining Regions, unless the Regional Conformity Advisor expresses any views that would lead to an opinion of non conformity, then the WMRA Secretariat will forward the advice to the neighbouring Local Planning Authority.

## **7.0 Involvement at Public Examinations and Inquiries.**

### **7.1 Development Plan Documents**

When the Regional Assembly provides its formal advice to a Local Planning Authority on a Development Plan Document, then this will be brought to the attention of the Planning Inspector presiding over the Public Examination of that Document by the Authority concerned.

- 7.2 In Examinations where the Regional Assembly is not represented, should the Inspector seek any clarification on a representation, then any response shall be provided in writing by the Regional Conformity Advisor to the WMRA Secretariat for endorsement by the Conformity Panel. The Assembly's response shall then be provided as a written statement to the Examination, before the close of the Examination.

- 7.3 The Regional Assembly will only attend Examinations by exception, for example, where the Assembly's advice is that the Development Plan Document is not in general conformity with the Regional Spatial Strategy. Where the Assembly is represented the Regional Conformity Advisor will be required to represent the Regional Planning Body as necessary unless the Assembly's Members did not agree their Assessment as the basis of the final response.

### **7.4 Site Allocations Development Plan Documents**

Following the submission of a Site Allocations Development Plan Document, any representations that have been made are required to be advertised by the Local Planning Authority. The Regional Assembly has taken the view that is impractical, and a diversion of limited resources, to review all of the sites and consider whether they are in general conformity with the Regional Spatial Strategy, especially if the Site Allocations Development Plan Document is considered to be in general conformity with the Core Strategy and the Regional Spatial Strategy.

### **7.6 Regionally Significant Planning Applications**

At any Public Inquiries in relation to a planning application where the Assembly has provided advice, it is considered that any supplementary evidence should be made by written representations. In such circumstances a Regional Conformity Advisor

would prepare this advice for consideration by the Conformity Panel. Again this would only apply where the Assembly had used their advice as the basis of a response.

## **8.0 Monitoring and Review.**

- 8.1 Performance against this Protocol will be monitored and will be reported to both the Regional Planning Partnership and Regional Planning Executive. In respect of regionally significant planning applications and pre application enquiries, the Regional Assembly has a duty to send an Annual Report to the Department of Communities and Local Government in relation to statutory response times to consultations.
- 8.2 This Protocol and Appended documents will be reviewed at least annually to ensure that the process continues to operate efficiently and effectively and to reflect any emerging or new legislation and guidance. Reviews shall be professionally managed by the Regional Planning Officers Group and will be subject to direction/approval by the Regional Advisory Group.



## How the Regional Assembly deals with formal and informal requests in relation to general conformity

**TABLE 1**

**Key to Abbreviations:**

RPB = Regional Planning Body  
LDD = Local Development Document  
RCA = Regional Conformity Advisor  
RSPA = Regionally Significant Planning Application  
LPA = Local Planning Authority  
WMRA = West Midlands Regional Assembly

LDD or RSPA received by the Assembly's Secretariat.

Secretariat checks with the relevant RCA that they have received the details and check that it is a consultation upon which the Regional Planning Body should comment on.

Dates for internal consultation are agreed, together with that for a Conformity Assessment from the RCA. Any extension of time required from LPA in respect of a RSPA is sought.

WMRA Secretariat notifies all RCA's, Policy Leads, Strategic Advisors, and where relevant Members of the Conformity Panel. Details placed on Assembly's website.

RCA considers whether they need any advice from a relevant Policy Lead and contacts them to request assistance.

Any comments on general conformity sent to RCA's within stipulated timescale.

RCA prepares Conformity Assessment.

Conformity Assessment submitted to the Assembly's WMRA Secretariat by the RCA.

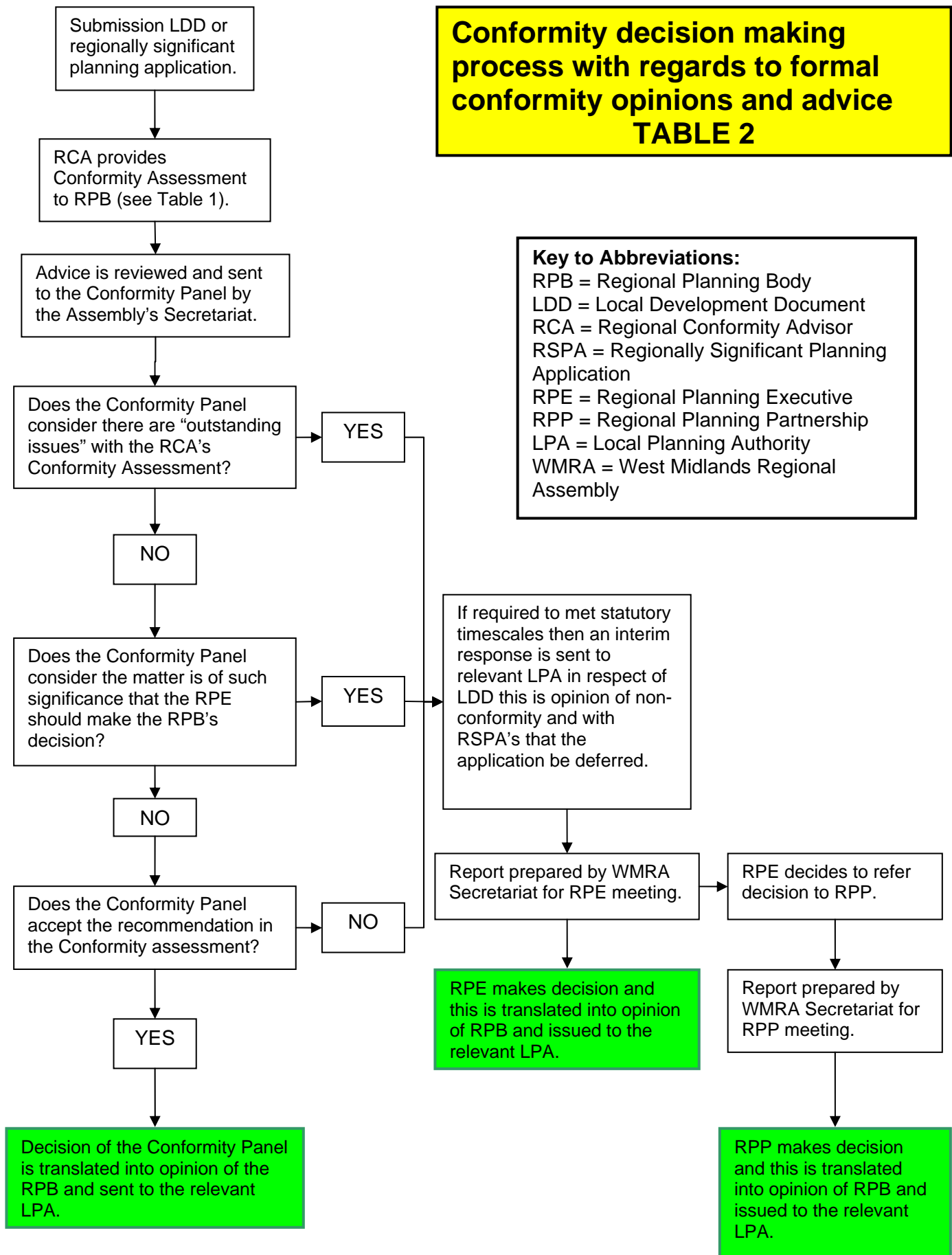
WMRA Secretariat reviews the Conformity Assessment for clarity and consistency before presenting it to the Conformity Panel.



## Conformity decision making process with regards to formal conformity opinions and advice TABLE 2

### Key to Abbreviations:

RPB = Regional Planning Body  
LDD = Local Development Document  
RCA = Regional Conformity Advisor  
RSPA = Regionally Significant Planning Application  
RPE = Regional Planning Executive  
RPP = Regional Planning Partnership  
LPA = Local Planning Authority  
WMRA = West Midlands Regional Assembly



## **Conformity Protocol - Appendix A - Roles and Responsibilities of signatories to the Conformity Protocol**

### **The Role of the Regional Planning Body**

1. To seek to secure the general conformity of all Local Development Documents with the Regional Spatial Strategy where an opinion has been requested.
2. To advise on the general conformity of regionally significant planning applications with the Regional Spatial Strategy as a statutory consultee.
3. To utilise the region's strategic planning authorities as Regional Conformity Advisors and the Minerals and Waste Conformity Panel to advise (for their geographic area of responsibility) on whether Local Development Documents and regionally significant planning applications are in general conformity with the Regional Spatial Strategy.
4. To work in accordance with the Conformity Protocol and Appendices attached to it.
5. To operate a decision making process in accordance with the Protocol governing the exercise of the Regional Planning Body Conformity Role.
6. To ensure that equal application of general conformity judgement is applied across the Region in terms of both clarity and consistency of advice.
7. To ensure that upon notification or formal submission of a Local Development Document or a regionally significant planning application:
  - a) receipt and deadline dates are agreed with the Regional Conformity Advisor/Minerals and Waste Conformity Panel.
  - b) an email alert is sent to the Regional Conformity Advisors, Regional Spatial Strategy Policy Lead's, the chair of the Regional Town Centres Group, and the Assembly's Strategic Advisors.
  - c) information pertaining to the consultation is posted on the WMRA website.
8. To inform stakeholders, the Regional Planning Partnership, and the Regional Planning Executive of current consultations.
9. To ensure that the Regional Spatial Strategy conformity process is carried out in an open, transparent and inclusive manner.
10. To ensure that all records of meetings, information and advice received or given in carrying out the assessment of general conformity is made publicly available upon request.
11. To have due regard to opinions received where these relate to general conformity with the Regional Spatial Strategy.
12. To report to the Regional Planning Partnership and the Regional Planning Executive a record of all decisions taken by Conformity Panel, as well as providing updates on current issues that arise as a result of conformity based work.
13. To issue an opinion of general conformity within the timescales set by the Planning Act and Secondary legislation unless a written local agreement is in place.
14. To establish working arrangements to co-ordinate the operation of this Protocol with Government Office, Advantage West Midlands and the Highways Agency to minimise duplication of activities and to maximise consistency of advice.

### **The Role of the Strategic Planning Authorities**

1. To act as Regional Conformity Advisors to the Regional Planning Body to secure the general conformity of Local Development Documents and regionally significant planning applications with the Regional Spatial Strategy where an opinion has been requested.
2. To establish arrangements whereby advice is given to the plan making authorities within their remit on the general conformity of their emerging Development Plan Documents at informal and self assessment stages, utilising as good practice the self-assessment tool (see Reference Document C).

3. To establish arrangements for the effective monitoring of planning applications in their agreed area of responsibility and to give prompt advice to the relevant planning authority on general conformity issues arising there from having particular regard to the definition of regionally significant planning applications (Reference Document D).
4. To advise the Regional Planning Body promptly where issues of general conformity have arisen that are not capable of resolution between the relevant planning authorities.
5. To present to the Regional Planning Body a Conformity Assessment, noting any pre-submission discussions, issues, consultations and views received.
6. To provide the Regional Planning Body with a balanced opinion of general conformity setting out clearly the issues involved and key determining factors, taking into account and having due regard to any views received from Regional Spatial Strategy Policy Leads, Strategic Advisors or other parties.
7. To ensure that there is adequate staff coverage in light of key personnel absences.
8. To assist and represent the Regional Planning Body at Public Examinations as set out in Section 7 of the Conformity Protocol.
9. To operate in the spirit of partnership working reflecting the open and inclusive ethos of the Regional Planning Body.
10. To comply with timescales set out in the Conformity Protocol and statutory requirements set by the Planning Act and Secondary legislation.

### **Role of the Metropolitan Authorities**

In addition to the above;

1. To agree measures to operate the Protocol using the established Principal Assistants' Group as a mechanism for mutually assessing the general conformity of Local Development Documents and regionally significant planning applications of the seven Metropolitan Authorities.

### **Role of the Shire Unitary Authorities**

In addition to the above;

1. To agree measures to operate the Protocol by securing the mutual assessment of general conformity of Local Development Documents and regionally significant planning applications of the three Shire Unitary Authorities.

### **The Role of the Local Planning Authorities**

1. To maintain close and open liaison with their Regional Conformity Advisor/Minerals and Waste Conformity Panel in the preparation, review and roll-forward of their Local Development Schemes.
2. To have full regard to Regional Spatial Strategy in the preparation of their Local Development Documents in liaison with their Regional Conformity Advisor/Minerals and Waste Conformity Panel.
3. To discuss all aspects of their Development Plan Documents at pre submission stage with their Regional Conformity Advisor and any relevant Policy Lead/Strategic Advisor, and to work actively to resolve any general conformity issues.
4. Consult the Regional Planning Body on planning applications which Reference Document D of the Protocol indicates are of regional significance.
5. To help identify at the earliest stage possible all regionally significant planning applications that might be considered to be regionally significant during pre application discussion and to bring these to the attention of their Regional Conformity Advisor.
6. To submit one copy of relevant documentation to the WMRA Secretariat and one copy to their Regional Conformity Advisor. In addition where the documents concern Minerals or Waste matters then one copy of relevant documents should be sent to the

Chair of the Minerals and Waste Conformity Panel. Where possible details should be uploaded on the Authority's website so that those wishing to comment can easily view details of the consultation.

7. To have regard to statutory and Conformity Protocol timescales so that a request for an agreed extension of time to respond to planning applications is considered favourably.
8. Bring to the attention of the Regional Assembly any representation from other parties that Local Development Document or regionally significant planning application is not in general conformity with the Regional Spatial Strategy.

### **Assessment of Waste and Minerals Documents and regionally significant planning applications**

Minerals Development Plans Documents produced by any of the Region's planning authorities as well as regionally significant planning applications of a minerals and waste nature shall be scrutinised by a Minerals and Waste Conformity Panel in line with guidelines produced for that Panel.

### **Codes of Conduct**

**All officers and Members shall operate this Protocol according to the Code of Conduct**

### **Review**

This Protocol and appended documents will be reviewed at least annually to ensure that the process continues to operate efficiently and effectively and to reflect any emerging or new legislation and guidance. Performance against the Protocol will be monitored.

## **Conformity Protocol – Appendix B – Glossary of Terms referred to in the Protocol**

Chief Engineers and Planning Officers Group

*Collectively, the Conformity Advisor for the Seven Metropolitan Authorities.*

Conformity Assessment

*An Assessment that is produced by a Regional Conformity Advisor as advice to the Regional Assembly in relation to a consultation on a Local Development Document or regionally significant planning application.*

Conformity Panel of Members

*Assembly Members on the RPE who have been given responsibility to deal with conformity issues under agreed Protocols.*

Development Plan Document

*Development Plan Documents are prepared by Local Planning Authorities and outline the key development goals of the Local Development Framework. Development Plan Documents include the Core Strategy, site-specific allocations of land and, where needed, Area Action Plans. There will also be an adopted proposals map which illustrates the spatial extent of policies that must be prepared and maintained to accompany all Development Plan Documents. All Development Plan Documents must be subject to rigorous procedures of community involvement, consultation and independent examination, and adopted after receipt of the Inspector's binding report. Once adopted, development control decisions must be made in accordance with them unless material considerations indicate otherwise. Development Plan Documents form an essential part of the Local Development Framework.*

Issues and Options and Preferred Options Stage

*The "pre-submission" consultation stages on Development Plan Documents with the objective of gaining public consensus over proposals ahead of submission to government for independent examination.*

Local Development Document

*These include Development Plan Documents (which form part of the statutory Development Plan) and Supplementary Planning Documents (which do not form part of the statutory Development Plan). Local Development Documents collectively deliver the spatial planning strategy for the Local Planning Authority's area.*

Local Development Framework

*The Local Development Framework (LDF) is a non-statutory term used to describe a folder of documents, which includes all the Local Planning Authority's Local Development Documents. An LDF is comprised of:*

- Development Plan Documents (which form part of the statutory Development Plan)*
- Supplementary Planning Documents*

*The Local Development Framework will also comprise of:*

- the Statement of Community Involvement*
- the Local Development Scheme*
- the Annual Monitoring Report*
- any Local Development Orders or Simplified Planning Zones that may have been added*

#### Local Planning Authority

*Counties, District's, Borough's and Metropolitan Authorities who prepare Local Development Frameworks and determine planning applications in their administrative area.*

#### Minerals and Waste Conformity Panel

*A panel of Officers from the Strategic Authorities who provide the Assembly with a Conformity Assessment in relation to Documents and planning applications for minerals and waste developments.*

#### Public/Independent Examination

*The process by which a planning Inspector may publicly examine a Development Plan Document or a Statement of Community Involvement (SCI) before issuing a binding report. The findings set out in the report of binding upon the Local Authority that produced the Development Plan Document or SCI.*

#### Public Inquiry

*A hearing by a Planning Inspector into a planning matter such as a Local Plan or appeal.*

#### Regional Conformity Advisor

*The Officer or Officers from the Strategic Authorities within the Region who provide advice to the Regional Assembly on conformity matters arising in the Local Planning Authorities in their geographic area.*

#### Regional Planning Body

*Body responsible for the production and review of the Regional Spatial Strategy and matters relating to the ongoing planning and development of the Region.*

#### Regional Planning Executive

*A sub committee of the Regional Planning Partnership. The RPE have been delegated specific responsibility for examining the conformity of Local Development Documents with the Regional Spatial Strategy and to agree the Regional Planning Body's response to any consultation on planning applications of regional significance.*

#### Regional Planning Officers Group

*A cross sectional group of persons that provide a sounding board to advise the Regional Assembly on a wide range of spatial planning issues including conformity and implementation matters.*

#### Regional Planning Partnership

*A Committee of the Regional Assembly's Board dealing with the Assembly's role as "Regional Planning Body"*

#### Regional Spatial Strategy (RSS)

*A strategy for how a region should look in 15 to 20 years time and possibly longer. The Regional Spatial Strategy identifies the scale and distribution of new housing in the region, indicates areas for regeneration, expansion or sub-regional planning and specifies priorities for the environment, transport, infrastructure, economic development, agriculture, minerals and waste treatment and disposal. The Regional Spatial Strategy is part of the Development Plan of an area.*

#### Regional Spatial Strategy Policy Leads

*Person who is responsible for overseeing and championing particular Policies of the Regional Spatial Strategy and any ongoing revisions to these.*

#### Secretary of State

*The Secretary of State for Communities and Local Government (CLG).*

#### Seven Metropolitan Authorities

*Birmingham City Council, Coventry City Council, Dudley Metropolitan Borough Council, Sandwell Metropolitan Borough Council, Solihull Metropolitan Borough Council, Walsall Council, and Wolverhampton City Council.*

#### Shire Counties

*County Councils of Shropshire, Staffordshire, Warwickshire, and Worcestershire.*

#### Shire Unitaries

*City of Stoke on Trent Council, Herefordshire Council, and Telford and Wrekin Council.*

#### Strategic Authorities

*A Local Authority which the Regional Planning Body must seek the advice of in relation to certain number of its functions. In the West Midlands Region this is the Authorities of the Shire Counties, the Seven Metropolitan Authorities, and the Shire Unitaries.*

#### Submission (of a Document)

*A Development Plan Document submitted to the Secretary of State for independent examination by a government appointed planning Inspector.*

#### Supplementary Planning Document

*A Supplementary Planning Document is a Local Development Document that may cover a range of issues, thematic or site specific, and provides further detail of policies and proposals in a 'parent' Development Plan Document.*

#### WMRA Secretariat

*Officers from the Regional Assembly who coordinate the conformity process and provide support to Members of the RPP and RPE.*

## REFERENCE DOCUMENTS

The following Reference Documents accompany the West Midlands Conformity Protocol that was approved by the Regional Planning Partnership on the 24<sup>th</sup> September 2007.

The Documents are subject to changes and updates as necessary. The current versions will be available via the Regional Assembly's website.

### Reference Document:

- A Geographical areas of responsibility for Regional Conformity Advisors
- B Guidelines for Unitary Authorities (i) Metropolitan Unitaries (ii) Shire Unitaries
- C Self assessment tool for Local Planning Authorities
- D Criteria and guidance in relation to regionally significant planning applications
- E Protocol Governing the Exercise of the RPB Conformity Role
- F Code of Conduct for Officers and Members
- G Guidelines for the Regional Minerals and Waste Conformity Panel