

West Midlands
Regional Assembly

**Regionally Significant Planning
Applications Guidance**

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Who is this Guide for?

This guide is aimed primarily at Local Authority Development Control Officers who are involved with planning applications. However, it may also be of interest to those in the development industry and members of the public.

Why is there a need to consult the Assembly?

Under the 2004 Planning Act, West Midlands Regional Spatial Strategy (WMRSS) became the key component of the statutory Development Plan for the Region. In order to ensure the implementation of the WMRSS the Assembly, as the Regional Planning Body (RPB), has a duty to look at all Development Plan Documents in order to give an opinion of general conformity with the WMRSS.

Additionally, the government has also made the Assembly a statutory consultee with regard to certain planning applications of regional significance as part of the process of ensuring the implementation of the WMRSS. Failure to consult the Assembly on a regionally significant planning application that falls within the definition stipulated by the Assembly could potentially lead to an application of Judicial Review from a third party.

What is a regionally significant planning application?

A regionally significant planning application is one that would be of major importance for the implementation of the WMRSS or a relevant regional policy because of its scale or nature or the location of land.

As permitted by government, the RPB has notified Local Planning Authorities in the Region of the descriptions of development in relation to which it wishes to be consulted. At the end of this guide are the criteria that the Assembly has chosen for this purpose and a flow diagram to help identify when the Assembly should be notified.

When do I involve the Assembly?

As a statutory consultee, the Assembly only needs to be involved when a regionally significant planning application has been received by your authority.

However, when you are involved in pre application discussions, you should also consider whether the development proposed will need to be sent to the Assembly in order that informal views can be provided. Where a relevant pre application enquiry is sent to you on a confidential basis, you should inform the enquirer that the Assembly would have an interest in the proposal, and recommend that they contact the Assembly for advice.



Where do I send the consultation to?

The Assembly has adopted a decentralised approach to carrying out its conformity role by drawing on the bank of knowledge and expertise held by the Strategic Authorities e.g. county council's. Consultations should therefore be sent to both the Assembly and the relevant Regional Conformity Advisor (RCA) for your administrative area. However, if the application is for a minerals or waste development then it should be sent to the Chair of the Minerals and Waste Conformity Panel.

What information do I need to send?

The Assembly has produced a pro forma for you to complete in relation to any consultations you need to send. This also includes what level of information is required in order to permit an appropriate consideration of the application and to provide a substantive response. Copies of the pro forma are provided on the conformity page of the Assembly's website.

How will the Assembly come to a view on an application?

In order to provide a clear, consistent, and balanced approach to the assessment of an opinion of conformity with the WMRSS, a report pro forma has been produced to assist RCAs in the preparation of their assessments. This includes the opportunity to seek advice from Regional Spatial Strategy's Policy Leads and other RCAs where this is appropriate. A copy of this pro forma is on the conformity page of the Assembly's website.

The pro forma can also be used in pre application discussions with a developer to enable consideration of how the proposal relates to the WMRSS. As previously explained, if necessary the Assembly or relevant RCA should be contacted for an informal opinion on the proposals.

As Assembly views are being sought, Assembly Members need to be happy with the advice received from the RCA's in terms of consistency and the balance of arguments. This means that the dedicated Conformity Panel of the Regional Planning Executive considers all recommendations made and will then determine the Assembly's final view. The approved advice is then referred back to the local authority.

Should very contentious issues arise and referral to the Regional Planning Executive or Partnership become necessary, then in the light of the timescales for responding to a consultation, the Local Planning Authority will be notified and a recommendation given that the application be deferred pending further consideration by the Assembly. The Assembly response will then follow as a result of a decision made by the full Planning Executive or Partnership.



When will the Regional Assembly reply?

As a statutory consultee, the Assembly is required to respond to consultations on planning applications and pre application enquiries within 21 days. However, there may be instances where an extension of time is sought by the Assembly in order to provide a considered response. We would appreciate it if such requests are considered favourable.

What weight do I give to the Assembly's comments?

As the RPB, the Assembly assesses consultations on planning applications on the basis of whether the development would prejudice the policies and objectives contained within the WMRSS. Advice is then provided in the form of a balanced opinion as to whether or not the proposal is in 'general conformity' with the WMRSS.

The WMRSS has the status of a Development Plan and therefore forms part of the framework for decisions taken under section 38 of the Planning and Compulsory Purchase Act (2004). This means that decisions on all applications have to be taken in accordance with the Development Plan unless other material considerations indicate otherwise.

It should also be noted that the 2004 Planning Act provides that, if there is a conflict between policies in a Regional Spatial Strategy and an adopted Structure Plan, then the most recent document will take precedence. The WMRSS was published in June 2004 with a first revision being issued in January 2008. The current WMRSS can be viewed on the Assembly's website.

What if an application is granted permission despite the Assembly advising that it is not in general conformity with the WMRSS?

The Assembly would hope that your authority would give considerable weight to its advice in coming to a decision but it has no direct power of intervention should an authority decide otherwise. The Assembly always forwards copies of its opinion to Government Office for the West Midlands and the Secretary of State has separate powers of intervention if it is considered appropriate.

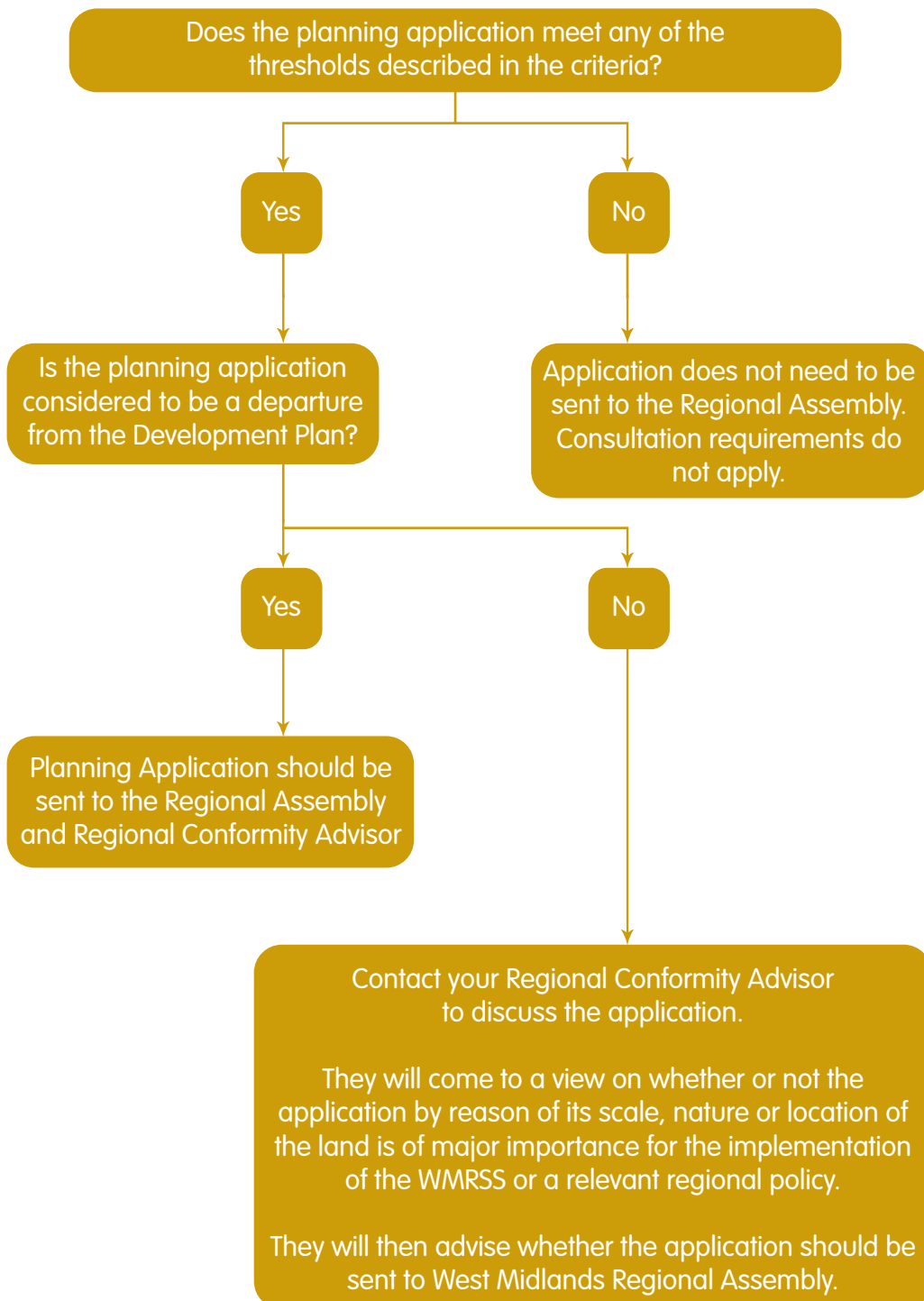
Will the Assembly support the council if it's advice leads to a refusal of planning permission?

If the reasons for refusal are based on our advice then the Assembly will consider whether it should support your authority at any subsequent appeal. However, because of resource issues any subsequent involvement by the Assembly will be restricted to Written Representations. It should always be remembered that the WMRSS is part of the Development Plan for your authority's area.



How to identify planning applications that are regionally significant

The flow chart below can assist Local Planning Authorities in identifying planning applications that are regionally significant and therefore are developments on which the Assembly should be consulted.





Criteria

(Headings based on Chapters of the Regional Spatial Strategy)

Communities for the Future

- In Major Urban Areas residential applications of more than four hectares on green-field sites
- In the settlements of significant development, residential applications of three hectares or more on any sites
- In other urban areas or market towns residential applications of two hectares or more on any sites
- In rural areas residential applications of one hectare or more on any site
- In any area residential applications of more than 10 hectares on existing employment sites.

Prosperity for All

(Employment)

- Outside of the limits of a strategic centre all office (Use Class B1a) applications (including where these are a part of a mixed use development) of 5,000 gross square metres or more
- In the settlements of significant development, other urban areas, and market towns any Use Class B1, B2 or B8 scheme over 10 hectares
- In rural areas any Use Class B1, B2, or B8 scheme that is in excess of two hectares
- Significant applications for and on Regional Investment Sites (RIS), Major Investment Sites (MIS), Regional Logistic Sites (RLS).

(Retail and Leisure)

- Outside of the limits of a strategic centre¹ all applications comparison retail developments (including where these are a part of a mixed use development) of 5,000 gross square metres or more
- Retail schemes involving 20,000 gross square metres floorspace area or more
- Leisure schemes involving 20,000 gross square metres floorspace area or more
- Tourism or leisure development of 5,000 gross square metres or more outside of a strategic centre defined in Policy PA11 and/or would have a national, regional (except in the case of developments in Birmingham City Centre) or sub-regional role and catchment.

Quality of the Environment

- New, or expansion of existing processing, utilisation and inter modal mineral handling facilities which exceed 1,000 square metres or a site greater than five hectares
- Proposals for mineral extraction of 100,000 tonnes per year or 15 hectares or more
- Sites of 10 hectares or more for waste disposal or proposals for waste management or waste transfer facilities of 50,000 tonnes per year
- Renewable energy proposals greater than 5MW capacity (e.g. five turbines or a digester with 2MW of electricity and 3MW of heat capacity)
- Development schemes of 15 hectares or more which would sterilise mineral resources identified in a Minerals Consultation Areas and/or Minerals Safeguarding Areas.

Transport

- Major transport infrastructure (above £5 million capital)²
- Any application for a Strategic Park and Ride facility
- Any application which would prejudice the schemes listed in Policy T12
- Any proposals for new airport developments or significant expansion or intensification of use in connection with existing airports in the Region.

¹ A strategic centre is one that is identified in Policy PA11, namely: Birmingham, Brierley Hill, Burton upon Trent, Cannock, Coventry, Hanley (Stoke on Trent), Hereford, Kidderminster, Leamington Spa, Lichfield, Newcastle under Lyme, Nuneaton, Redditch, Rugby, Shrewsbury, Solihull, Stafford, Stratford upon Avon, Sutton Coldfield, Tamworth, Telford, Walsall, West Bromwich, Wolverhampton, Worcester.

² LTP definition



Still Unsure?

If you are unsure if the application meets the criteria contact the Regional Conformity Advisor for your administrative area.

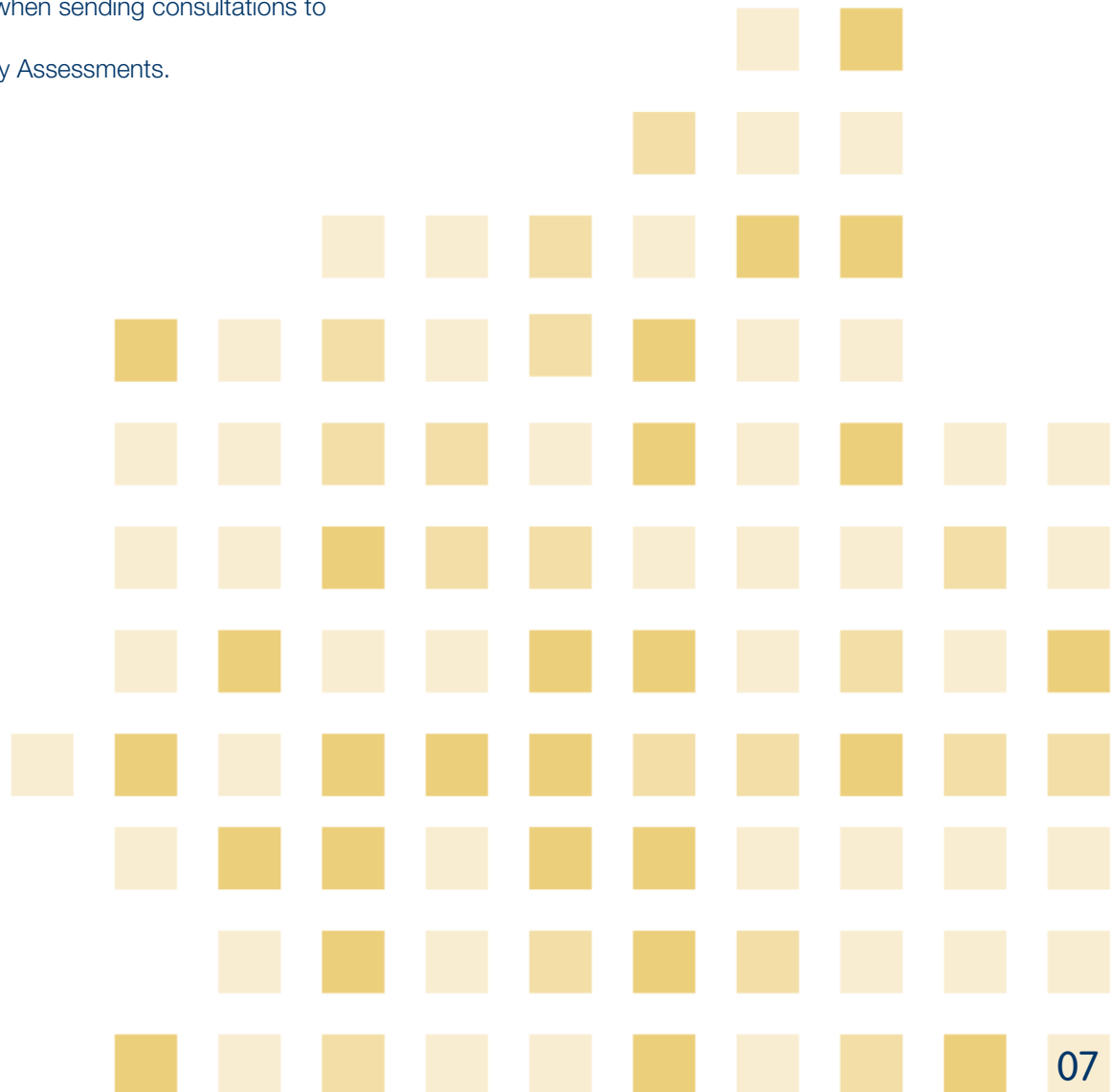
Alternatively contact **Tim Williams** at West Midlands Regional Assembly on **0121 678 1050** or **t.williams@wmra.gov.uk**

More Information

The following Conformity information is available from the Assembly's web page:

www.wmra.gov.uk/page.asp?id=51

- Schedule of contact details for Regional Conformity Advisors
- Pro forma to complete when sending consultations to the Assembly
- Pro forma for Conformity Assessments.



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Should you have any specific questions in respect of this document please contact:

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