

**SOUTH EAST ENGLAND REGIONAL ASSEMBLY
REGIONAL PLANNING COMMITTEE**

Date: 21 March 2007

Subject: **LDD Conformity - Review of Arrangements**

Report of: Planning Strategy Director
South East England Regional Assembly

Recommendations:

That the Committee agree:

1. Amendments to the existing delegation arrangements on assessing the general conformity of Local Development Documents as follows:
 - The delegation of powers to approve the Assembly's formal opinion of the general conformity of Core Strategies and other regionally significant Development Plan Documents, and any associated formal representations, to a sub-group of the Regional Planning Committee.
 - The delegation of powers to approve the Assembly's formal opinion of the general conformity of non-regionally significant Development Plan Documents and Supplementary Planning Documents, and any associated formal representations, to the Planning Strategy and Planning Implementation Directors.
2. The Advice Note to Local Authorities in Annex I, for circulation to local planning authorities.

Purpose of Report:

To update members on the recent review of arrangements for assessing the general conformity of Local Development Documents (LDDs), and set out suggested amendments to the procedures and actions in the light of this review.

Key Issues:

Assembly officers have undertaken a review of the Assembly's conformity arrangements, in consultation with local authorities, the Government Office and Planning Inspectorate.

As a result, it is proposed to:

- Amend the current delegation arrangements to allow Directors to agree responses to requests for opinions of general conformity where these relate to Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs) that are not significant at a regional level, to remove unnecessary time and resource implications; and
- Circulate a formal advice note to local authorities providing information about the Assembly's procedures for responding to consultations on DPDs and SPDs, and giving guidance on the interpretation of the term 'general conformity'.

1. Background

- 1.1 Members will be aware that the Assembly is a statutory consultee on LDDs (DPDs and SPDs) prepared by local authorities within the region.
- 1.2 At the Regional Planning Committee in March 2006, members agreed the procedures for responding to these consultations, and delegation arrangements to a sub-group of the Committee for the agreement of responses to consultations on LDDs. It was also agreed that advice be provided to local authorities explaining the Assembly's procedures.
- 1.3 It was reported to members in December 2006 that a review of these arrangements was underway, to consider whether there was a need to adjust them in the light of experience. This paper sets out the conclusions of that review.

2. Consultation Stages

- 2.1 The Planning and Compulsory Purchase Act 2004 (the Act) and accompanying Regulations require that local authorities consult the Assembly in two ways:
 - Throughout the production of DPDs and SPDs and on the final draft document if the subject matter affects the Assembly (that is, if it is relevant to the delivery of the RSS).
 - That they seek an opinion of general conformity from the Assembly on DPDs (and may do on SPDs) on submission of the draft document to the Secretary of State.

3. Delegation Arrangements

- 3.1 It was agreed by the Committee in March 2006 that the Assembly would focus its resources on providing comments and opinions of general conformity on Core Strategies and regionally significant DPDs. Members therefore agreed: 'the delegation of powers to approve the Assembly's formal opinion of general conformity of Local Development Documents and any associated formal representations to a sub-group of the Regional Planning Committee'.
- 3.2 Since the agreement of these delegation arrangements, the Assembly has received high numbers of requests for comments and opinions of general conformity on DPDs - and more notably SPDs - that are not considered to be regionally significant. These include documents such as neighbourhood area action plans and detailed design guidance.
- 3.3 By virtue of the Act, the Assembly has a duty to respond for requests for opinions of general conformity even on documents that relate to detailed local issues and are not significant to the delivery of the Regional Spatial Strategy (RPG9 and the draft South East Plan). However, the existing delegation arrangements require that the member sub-group must agree all opinions of general conformity provided by the Assembly, even on these non-regionally significant DPDs and SPDs. This has considerable time and resource implications, both for the RPC sub-group, and for Assembly officers in producing formal reports to the sub-group.
- 3.4 It should be noted that all DPDs and SPDs are required to be in conformity with the local authority's Core Strategy and the Regional Spatial Strategy. In the light of this, it is considered that non-regionally significant DPDs and SPDs - which include policy relating to the detailed local implementation of Core Strategy and RSS policies - are highly unlikely to compromise the implementation of the RSS.
- 3.5 It is therefore recommended that the delegation arrangements agreed in March be amended to delegate formal representations and opinions of general conformity on Core Strategies and other regionally significant DPDs and SPDs to the RPC sub-group, and to delegate opinions of general conformity on non-regionally significant DPDs and SPDs to the Planning Strategy and Implementation Directors.
- 3.6 However, in order to ensure the appropriate checks and balances remain, Assembly officers will notify the RPC sub-group of their intention to issue an opinion of general conformity on any non-regionally significant DPD or SPD. This will give members of the sub-group the opportunity to request that the sub-group agree the formal Assembly response if they consider that regionally significant issues may be raised by the document. This approach has been informally trialled with the RPC sub-group over recent months.

4. Advice to Local Authorities

- 4.1 Following the agreement of procedures by this Committee in March 2006, an interim advice note was issued to local authorities, setting out the Assembly's arrangements for responding to statutory consultations and requests for opinions of general conformity on DPDs and SPDs.
- 4.2 As part of the review process, officers met with a group of local authority officers before Christmas to discuss the Assembly's procedures and the information contained within the interim advice note. It was agreed that the interim advice note should be updated and formalised.
- 4.3 A revised Advice Note has therefore been drafted, in consultation with the Government Office and the Planning Inspectorate. This is attached in Annex I. Assembly officers have also taken legal advice on the content of the note, and it has been circulated to members of the Planning Officers Society and members of the RPC Conformity sub-group for informal comment.
- 4.4 Definitions of 'General Conformity'
 - 4.4.1 A broad definition of what general conformity means is provided in PPS12: '...only where an inconsistency or omission in a DPD would cause significant harm to the implementation of the RSSshould [it] be considered not to be in general conformity'
 - 4.4.2 However, the judgement as to what kind of issues or omissions within a Core Strategy or other DPD would be of a such significance to cause significant harm to the implementation of the RSS is inevitably somewhat subjective, and is an area where no further national guidance is offered.
 - 4.4.3 In order to give some certainty to local authorities as to how the Assembly interprets this phrase, it is therefore considered that it would be helpful to provide, as part of the Advice Note, some examples of where a DPD or SPD might be considered to fail the 'general conformity' test.
 - 4.4.4 Assembly officers have been trialling a 'checklist' for local authorities, along with the interim advice note. This was discussed at the meeting with local authority representatives, and in the light of these discussions, and advice from GOSE and the assembly's lawyers, examples of instances where a DPD or SPD might fail the general conformity test are included within the LPA advice note as Annex A.

5. Conclusions

- 5.1 Members are requested to agree the recommendations set out at the start of this report proposed as a result of the review of conformity arrangements, in relation to the revision of delegation arrangements and the content of the advice note to local authorities.

5.2 It is suggested that a further review of procedures be undertaken in Spring 2008.

Catriona Riddell
Planning Strategy Director

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Contact: Cath Rose, Regional Planner
Tel: 01483 555 235
Email: catherinerose@southeast-ra.gov.uk