

West Midlands Regional Assembly

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Pam Perceval-Maxwell
Panel Secretary
West Midlands RSS EIP

Dear Pam

I am writing to you to put on formal record the position of the Assembly regarding the Strategic Environmental Assessment (SEA) Directive, in the context of the recent High Court decision regarding the East of England RSS. John Pattinson, my Head of Regional Planning, has given you some advance notice of this matter.

Whilst the full transcript of that judgement is not yet available, in view of its importance I have already taken legal advice about the position. You will, of course, appreciate that the Assembly cannot take a final view on the issue until it sees the full transcript so I reserve the right to make further representations once the full transcript of the judgement is known.

The areas I wish to place on record are as follows:

- Firstly, the Assembly considers it vitally important that the Panel seeks to avoid any challenge to the West Midlands Regional Spatial Strategy along the lines of what has taken place in the East of England. I would urge the Panel on behalf of the West Midlands Region that any risk that the 'housing numbers' part of the RSS might be quashed must be avoided at all costs. Similarly, I would ask that the Panel should guard against any substantial delay that would follow on from the need for further SA/SEA analysis. This is because in both instances the practical consequences would be, at best, to delay still further the adoption of Core Strategies across the Region and, at worst, to de-rail the whole RSS process in the West Midlands Region. The importance of this has been consistently emphasised to you by my officers during the Examination in Public.
- Secondly, and particularly in the light of the recent judgement, I suggest that, if the Panel is minded to recommend higher housing numbers (for example, based on the NLP Study), then it must make it abundantly clear in its report that the submitted RSS Phase Two Revision Draft (RSS2) has been subject to proper SEA (so that at least the RSS2 figures are not tainted by lack of SEA).
- Finally, I place on record the key points referred to in the statement made by Mr Pattinson at the end of Matter 8A on Tuesday 2 June. These are as follows:
 - a) The Assembly position as to the key points on the RSS2 made by Mr Middleton in his introductory opening statement (EXAM21). Mr Pattinson also referred to the 'proper and thorough' work done by URSUS Consulting on SA/SEA for the RSS2 as submitted to the Government by the Regional Assembly.

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- b) The juxtaposition of the RSS2 work submitted in 2007 with the work done on behalf of the GOWM in 2008 by Nathaniel Lichfield Partners (NLP) including the terms of reference for the NLP Study (CD178A element 3 on page 4 refers).
- c) The very limited involvement of WMRA in the NLP Study apart from the general stakeholder meetings.
- d) The critique of the NLP work on SA/SEA, as articulated in the critique by URSUS (CD 236), and in particular section 3.3.6 of the critique. In summary, this concluded that the NLP work does not describe the reasons for choosing the options or the scenarios, nor does it discuss the implications for any related options on waste, employment or centres. The reasons for selecting or eliminating alternatives are barely explained and it is not evident that this was due to the influence of the Sustainability Appraisal despite this being stated to be the case. This is an explicit requirement of the SEA Directive. Mr Pattinson also referred to section 3.3.4 of the critique and suggested that the Panel might also examine the analysis in that part of the report.
- e) Mr Pattinson then concluded that in the judgement of the Assembly the Panel had before it only one complete strategy – viz. RSS2 – with a thorough SA/SEA.

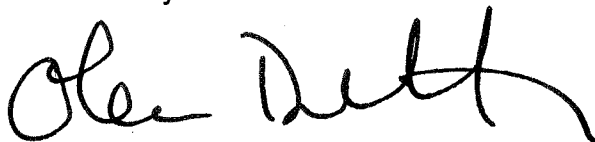
All of these points were noted by the Panel and the Chairman indicated that these did not need to be repeated by the Assembly at each sub-regional session which is accepted and has been confirmed with you.

I fully appreciate that this letter raises some fundamental issues for the Panel. However, we have considered this very carefully and that I have written as soon as possible after we have received advice in order to maximise the time the Panel has to consider these issues before the EIP is formally closed.

We have advised GOWM about the fact that we were writing to you and I am copying this to colleagues at GOWM so that they are aware of our position as soon as possible.

Mark Middleton and John Pattinson will be more than happy to discuss these matters with you either by phone or in person at the Molineux, Wolverhampton.

Yours sincerely



Olwen Dutton
Chief Executive

cc. GOWM - Trudi Elliot, Dave Marr, Ian Smith

WMRA - Cllr David Smith (Chairman of WMRA)
Cllr Rex Roberts OBE (Chair of Regional Planning and Environment Executive)