



Canal & River Trust as Statutory Consultee: Duty to Respond and Report for England

Purpose of the Report

The Canal & River Trust is a statutory consultee as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015. As a statutory consultee we are required to compile a report for the Secretary of State on our performance in responding to consultations. This is our annual report for the period 1st April 2017 to 31st March 2018.

We are the charity who look after and bring to life 2000 miles of canals & rivers across England and Wales. Our waterways contribute to the health and wellbeing of local communities and economies, creating attractive and connected places to live, work, volunteer and spend leisure time. These historic, natural and cultural assets form part of the strategic and local green-blue infrastructure network, linking urban and rural communities as well as habitats. Our waterways are on the doorstep of 8 million people and reach some of the most deprived communities within the UK. By caring for our waterways and promoting their use we believe we can improve the wellbeing of our nations.

Statutory Consultee Status for Planning Applications

The Canal & River Trust (“the Trust”) is a Statutory Consultee on planning applications involving:

Development likely to affect –

- *any inland waterway (whether natural or artificial) or reservoir owned or managed by the Canal & River Trust; or*
- *any canal feeder channel, watercourse, let off or culvert,*

which is within an area which has been notified for the purposes of this provision to the local planning authority by the Canal & River Trust.

In preparing a substantive response, the Trust’s Planners take advice from a range of internal specialists including, bridge, geotechnical and structural engineers, hydrologists, ecologists, heritage advisors etc.

The Notified Zone for Consultation with the Trust transcends **170** local-planning authority boundaries, in England as illustrated in the table below:

Type of Local Planning Authorities in England	No of Local Planning Authority administrative areas transcended by waterways owned or managed by the Trust
County Councils	17
National Park Authorities	3
Unitary Authorities	52
London Boroughs	18

Non Unitary Authorities	78
Other – UDC's, Olympic Legacy etc.	2
TOTAL	170

Number of consultations received

During the period 1 April 2017 – 31st March 2018 the Trust was asked to respond to 2916 pre-application, planning and related application consultations. This figure includes:

- 528 consultations to which the Trust has no statutory duty to respond, such as applications for listed building consent, applications for the discharge of conditions, but which we chose to respond to; and,
- 556 consultations from LPA's which were outside the notified area for consultation and where the LPA was consulting us for no specific reason. These were returned to the LPA without further action.

For the purposes of the remainder of this report, these 1084 consultations have been excluded.

The Trust therefore received a total of 1832 pre-application and registered planning application consultations in England to which there was a duty to respond within the period 01 April 2017 and 31 March 2018. The figures reported below relate to these consultations:

Consultation Type	Number of consultations received requiring a response in 2017/18
Pre-application consultations received from LPAs	70
Pre-applications received from others	93
Registered Planning Application Consultations received from LPAs	1669
Planning Application Consultations received from others	0
TOTAL	1832

Of these 1832 statutory consultations received, the Trust did not receive sufficient information to enable us to make a substantive response to 35 of these consultations despite requests made. A further 5 consultations were subsequently withdrawn within the statutory period and before the Trust made a substantive response.

We therefore consider that the Trust had a duty to respond to 1792 consultations as follows:

Consultation Type	Number of consultations received requiring a response in 2017/18
Pre-application consultations received from LPAs	68
Pre-applications received from others	93
Registered Planning Application Consultations received from LPAs	1631
Planning Application Consultations received from others	0
TOTAL	1792

The following analysis is based on these figures.

The Canal & River Trust's Overall Performance.

The Trust is required to make a substantive response within 21 days of receiving sufficient information or within an extended period which has been agreed between the parties.

The table below sets out our compliance in this regard:

	No. of Registered Planning Application Consultations	No. of Pre-Application Consultations received from LPAs	No. of Pre-Application Consultations received from others	Total No. of Consultations
No. of consultations in compliance with statutory deadlines	1402	53	62	1517
No. of consultations in Compliance with statutory deadlines & agreed extensions	189	8	21	218
No. of application consultations in non-compliance	40	7	10	57
TOTAL	1631	68	93	1792

In summary **the overall response rate within 21 days and/or an agreed extension period is 97%**. This **exceeds** the DCLG set target response rate for 80 – 95% of responses to be made within 21 days and/or an agreed extension.

The response rate has been maintained at this level since the 2016/17 report.

Reasons for Non Compliance with 21 day deadline or agreed extension for Consultations

A substantive response to 57 consultations was not provided by the Trust within 21 days of receipt and/or within an agreed extension period. For 62% of these consultations however, substantive responses were provided within 7 days of the deadlines as shown in the table below:

No. of additional days that statutory deadline and agreed extension of time exceeded	No. of Consultations	%
1 day	16	28%
2 – 3 days	10	18%
4 – 7 days	9	16%
8 – 14 days	10	18%
15 – 21 days	5	8%
22 – 28 days	0	-
> 28 days	1	2%
No response made/date not properly recorded	6	10%
TOTAL	57	100%

The reasons for non-compliance are below:

Principal reasons for non-compliance	No. of Consultations	%
Resourcing issues e.g. annual leave, sick leave, internal consultations	17	30%
Extension requested but not agreed	9	16%
Public holidays	2	3%
Other or reason not properly recorded	29	51%
TOTAL	57	100%

Pre-application Consultations

In the period 01 April 2017 to 31 March 2018 the Canal & River Trust received a total of 161 pre-application consultations, which represents 9% of the total number of consultations requiring a response received. Of these 68 (4%) were received from LPAs whilst 93 (5%) were received from persons other than a Local Planning Authority (“LPA”).

Key Issues and Challenges faced by the Trust as Statutory Consultee

As identified in previous reports over recent years, there are a number of key issues which continue to affect the Trust’s effectiveness as a statutory consultee:

1. 9% of all statutory consultations received were **pre-application requests** for advice from Local Planning Authorities and / or developers. This represents a slight improvement from last year when a figure of 8% was reported. However, this is still a relatively low number of pre-application consultations and it remains a key concern for the Trust.

On this point our response to the Draft National Planning Policy Framework consultation (May 2018) welcomes the proposed strengthening of the wording in paragraph 41 which states that local planning authorities “should also, where they think this would be beneficial, encourage applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications”.

We also suggest that the national planning practice guidance (NPPG) should be strengthened to support statutory consultees in adopting a pro-active and timely approach to consultation responses. In the section on statutory and non-statutory consultees at the pre-application stage, it would be helpful for NPPG to advise applicants to provide sufficient information, reflective of the stage of scheme development, to enable meaningful and timely engagement with statutory consultees.

2. We remain concerned that the proposed consultation arrangements for Permission in Principle on allocation in local and neighbourhood plans may undermine delivery of housing if Local Planning Authorities/Qualifying Bodies are not statutorily required to involve the Trust.

3. In the period 1st April 2017 to 31 March 2018 the Trust received 556 consultations from LPAs in England which were outside the notified areas for consultation and where the LPA was consulting us for no specific reason. These were returned to those authorities and the Trust did not respond to them further. Identifying and dealing with these consultations clearly has resource implications for the Trust diverting our attention from processing statutory consultations.

4. As stated earlier in this report, the Trust also received 35 consultations in 2017/18 where it was never provided with sufficient information to enable a substantive response to a consultation to be prepared despite repeated requests for it. In some instances, these consultations are still pending determination, and the information has still not been received over 90 days from the first date of consultation. In others, LPAs issued a decision before the information to enable us to respond was forthcoming.

5. Very few decision notices are received by the Trust from Local Planning Authorities. Copies of decision notices and planning obligations agreements (S106 Agreements) are required by the Trust in order to:

- Assist the Trust in checking compliance with conditions
- Monitor the Trust's effectiveness and value as a statutory consultee
- Make appropriate comments on future applications given the site history

It would be helpful if LPA's were obliged to provide electronic copies of decision notices, or a hyperlink to the decision, within seven working days of being issued to the applicant. We note the proposals in the draft NPPG (March 2018) regarding the publication of S106 agreements. We welcome the proposed guidance which recommends that local authorities record the details of each planning obligation using the standard open data monitoring tool.

Finally, we would like to reiterate our commitment to working with the MHCLG and others to explore new innovative ways of working to improve the performance of statutory consultees and local planning authorities in achieving our shared objective of supporting the delivery of sustainable growth.

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