



## 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 2018 to 31st March 2019.

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
<b>TOTAL</b>	<b>170</b>

## Number of consultations received

During the period 1 April 2018 – 31<sup>st</sup> March 2019 the Trust was asked to respond to 2849 pre-application, planning and related application consultations. This figure includes:

- 521 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,
- 549 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 1,070 consultations have been excluded.

The Trust therefore received a total of 1,779 pre-application and registered planning application consultations in England to which there was a duty to respond within the period 01 April 2018 and 31 March 2019. The figures reported below relate to these consultations:

<b>Consultation Type</b>	<b>Number of consultations received requiring a response in 2018/19</b>
Pre-application consultations received from LPAs	67
Pre-applications received from others	58
Registered Planning Application Consultations received from LPAs	1,654
Planning Application Consultations received from others	0
<b>TOTAL</b>	<b>1,779</b>

Of these 1,779 statutory consultations received, the Trust did not receive sufficient information to enable us to make a substantive response to 47 of these consultations despite requests made. A further 6 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 1,726 consultations as follows:

<b>Consultation Type</b>	<b>Number of consultations received requiring a response in 2018/19</b>
Pre-application consultations received from LPAs	67
Pre-applications received from others	53
Registered Planning Application Consultations received from LPAs	1,606
Planning Application Consultations received from others	0
<b>TOTAL</b>	<b>1,726</b>

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	1,369	55	32	1,456
No. of consultations in Compliance with statutory deadlines & agreed extensions	180	7	13	200
No. of application consultations in non-compliance	57	5	8	70
<b>TOTAL</b>	1,606	67	53	1,726

In summary **the overall response rate within 21 days and/or an agreed extension period is 96%**. This **exceeds** the MHCLG set target response rate for 80 – 95% of responses to be made within 21 days and/or an agreed extension.

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

A substantive response to 70 consultations was not provided by the Trust within 21 days of receipt and/or within an agreed extension period. For 51% 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	23%
2 – 3 days	12	17%
4 – 7 days	8	11%
8 – 14 days	8	11%
15 – 21 days	5	8%
22 – 28 days	3	4%
> 28 days	7	10%
No response made	11	16%
<b>TOTAL</b>	70	100%

The reasons for non-compliance are below:

<b>Principal reasons for non-compliance</b>	<b>No. of Consultations</b>	<b>%</b>
Resourcing issues e.g. annual leave, sick leave, internal consultations	10	14%
Extension requested but not agreed	11	16%
Public holidays	0	0
Delayed – Internal Consultations	12	17%
Other or reason not specified	26	37%
No Response	11	16%
<b>TOTAL</b>	<b>70</b>	<b>100%</b>

## **Pre-application Consultations**

In the period 01 April 2018 to 31 March 2019 the Canal & River Trust received a total of 120 pre-application consultations, which represents 7% of the total number of consultations requiring a response received. Of these 67 (56%) were received from LPAs whilst 53 (44%) 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. 7% of all statutory consultations received were pre-application requests for advice from Local Planning Authorities and / or developers. This represents a decrease from last year when a figure of 9% was reported. This is a comparatively low number of pre-application consultations. Whilst the number of pre-applications from Planning Authorities is static we have seen a significant decline in the number of pre-applications from others. This is of concern given the strengthening of wording in the NPPF for LPA’s to encourage applicants, where they think it would be beneficial, to engage with relevant statutory consultees before submitting their applications.
2. We note that following the recent consultation, MHCLG intend to pursue the proposal to extend the use of Permitted Development Rights for extending buildings upwards. The Trust expressed its concerns about the potential impact of this proposal on our network. The government’s response to the consultation states that “we recognise the complexity of designing a permitted development right to build upwards and will continue to engage with interested parties on the technical details”. Notwithstanding our objection in principle to this proposal we are keen that if it is to be taken forward that the technical details cover issues relevant to the protection of our 200 year old network, particularly in relation to land instability matters. Given the specialist nature of the issues relating our network, the Trust considers that it is an interested party and we would be happy to engage with MHCLG in relation to the technical details to avoid unintended consequences for the delivery of development and our network.
3. 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.
4. In the period 1st April 2018 to 31 March 2019 the Trust received 549 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 and LPA’s and diverts attention from processing consultations.
5. As stated earlier in this report, the Trust also received 47 consultations in 2018/19 where it was not provided with sufficient information to enable a substantive response to a consultation to be prepared. In some instances, these consultations are still pending determination, and in others, LPAs issued a decision before the information to enable us to respond was forthcoming.

6. The Trust monitors decision notices and planning obligations agreements (S106 Agreements) 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.

As a user of such information the Trust responded to the consultation on developing a common data format for planning obligations. The Trust would be happy to provide MHCLG with a non LPA user perspective as the tool is developed.

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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