

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 amended). 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 1 April 2022 to 31 March 2023.

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 by providing opportunities for exercise and active travel as well providing mental & physical health benefits to those who spend time by water. Our waterways also contribute to local 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. The waterway network provides an incredibly important bio-diverse corridor.

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 177 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 the Trust’s notified zone
County Councils	15
National Park Authorities	2
Unitary Authorities	58
London Boroughs	20
Non-Unitary Authorities	81
Other – UDC’s, Olympic Legacy etc.	1
TOTAL	177

Number of Consultations Received

During the period 1 April 2022 – 31 March 2023 the Trust was asked to respond to 3,346 pre-application, planning and related application consultations. This figure includes:

- **673** 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,
- **653** consultations from LPAs which were outside the notified area for consultation and where the LPA was consulting us for no specific reason. These were returned to the relevant LPA without further action.

For the purposes of the remainder of this report, these **1,326** consultations have been excluded.

The Trust therefore received a total of **2,020** pre-application and registered planning application consultations in England to which there was a duty to respond within the period 1 April 2022 to 31 March 2023. The figures reported below relate to these consultations:

Consultation Type	Number of consultations received requiring a response in 2022/23
Pre-application consultations received from LPAs	71
Pre-applications received from others	87
Registered planning application consultations received from LPAs	1,862
TOTAL	2,020

Of these **2,020** statutory consultations received, the Trust did not receive sufficient information to enable us to make a substantive response to **40** of these consultations despite requests made. In addition, **15** more were determined by the LPA and a further **4** consultations related to applications were withdrawn before the Trust made a substantive response.

We therefore consider that the Trust had a duty to respond to 1,961 consultations as follows:

Consultation Type	Number of consultations received requiring a response in 2022/23
Pre-application consultations received from LPAs	71
Pre-applications received from others	85
Registered planning application consultations received from LPAs	1,805
TOTAL	1,961

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. In summary, **the overall response rate within 21 days or an agreed extension period is 98%.**

	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	1553	62	59	1674
No. of consultations in compliance with agreed extensions to the statutory deadlines	225	7	21	253
No. of application consultations in non-compliance	27	2	5	34
Total	1,805	71	85	1,961

Reasons for non-compliance with 21-day deadline or agreed extension for consultations.

A substantive response to 34 consultations was not provided by the Trust within 21 days of receipt or within an agreed extension period. For 30% 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	3	9%
2 – 3 days	2	6%
4 – 7 days	5	15%
8 – 14 days	7	21%
15 – 21 days	3	9%
22 – 28 days	3	9%
> 28 days	7	20%
No response made	4	11%
TOTAL	34	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	1	3%
Extension requested but not agreed	10	29%
Public holidays	0	0%
Delayed – Internal Consultations	11	32%
Other or reason not specified	8	24%
No Response	4	12%
TOTAL	34	100%

Pre-application Consultations

In the period 1 April 2022 to 31 March 2023 the Canal & River Trust received a total of 156 pre-application consultations, which represents 8% of the total number of consultations requiring a response received. Of these, 71 (46%) were received from Local Planning Authorities (LPAs) whilst 85 (54%) were received from persons other than a Local Planning Authority.

Key Issues for the Trust as Statutory Consultee

At the Canal & River Trust we are constantly championing the creation of safe, accessible, and beautiful waterway places, the building block of which is the structural integrity of our waterway network and its associated assets. Our network also acts as critical national infrastructure either directly such as through water transfer and supply or by hosting infrastructure provided by others, for example utility services. In many cities and towns, the towpaths are an integral part of the active travel infrastructure. *A summary of the Trusts wider role and responsibilities and the risks and opportunities it faces are set out in the attached document 'Canal & River Trust : Celebrating 10 years as a charity'.*

In our capacity as a statutory consultee, we seek to safeguard our network, promote beauty, and achieve sustainable, accessible and resilient waterside developments. Our approach is to seek early engagement, offering realistic, robust, and viable solutions. As a result of this approach, we objected to only 1% of the consultations reported above, only objecting where there was an unresolved fundamental concern.

An ongoing challenge is obtaining pre-application engagement which we are keen to encourage. We understand how important it is for certainty in the planning process and obtaining the specialist input from the Trust at an early stage of a development proposal is vital to avoiding delay in the process or unintended consequences, maximising the safety and benefits of waterside developments. Ultimately, if we are not given the opportunity to input, decision makers and developers may be unaware of the potential impacts they may have. Failure to protect the structural integrity of the waterways can leave communities faced with the prospect of flooding through waterway breaches and critical national infrastructure being put at risk.

We believe that recognising and realising the benefits of waterways by integrating them with development in their vicinity can assist with the levelling up and regeneration agenda. Our waterways are on the doorstep of 9 million people and reach some of the most deprived communities within the UK. Over 60% of these communities experience some measure of deprivation and/or have high concentrations of people from ethnic minority backgrounds. Developments which embrace the waterways can unlock their many benefits helping to deliver on the public health, net zero carbon, digital connectivity and social inclusion agendas whilst providing a platform to assist with addressing the biodiversity crisis and for creating beautiful places for existing and emerging communities and supporting economic activity.

Our towpath network has seen continued increases in use in recent years, demonstrating its significant value as an accessible and free asset to local communities for health and wellbeing purposes. Our network is well placed to support the Government's commitment to ensure that anyone can reach green or blue space within 15 minutes from their front door, as established in the Environmental Improvement Plan. Our statutory consultee role makes an important contribution in this regard. We secure design interventions within developments that ensure that there is positive engagement between the waterway and its surroundings, delivering spaces that feel safer and more inviting. We also secure developer funding to enhance the quality and accessibility of our network, particularly its towpaths. We have had meetings with Active Travel England (ATE) in our capacity as a statutory consultee and as a provider of routes for active travel through our extensive network of towpaths. We look forward to working with ATE in its new role as a statutory consultee to secure more support for delivering high quality, attractive, car-free active travel routes on our network.

The introduction of mandatory Biodiversity Net Gain provides a new opportunity to secure improvements to the habitat quality of our network and, in turn, encourage more people to find access to nature on their doorsteps on our network. We are in discussion with the Environment Agency, as authors of the watercourse's element of the Biodiversity Metric, about changes that could be made prior to Autumn 2023 to address concerns about how canals are represented and will be collaborating on a separate approach for canals for future updates.

Failure to recognise and address the specialist issues relating to our historic network, as part of the planning process, can lead to adverse consequences for the health and well-being of communities, strategic and local connectivity as well as the resilience of place and the safeguarding of critical national infrastructure.

We are keen to ensure that that development, however it is granted, safeguards our network, public safety and critical national infrastructure and allows the waterways to play their full role in achieving sustainable, accessible and resilient places which deliver on the government's policy agendas.

We would welcome the opportunity to engage with DLUHC to consider how our knowledge of the waterways and their benefits is best used to inform any reform of the planning system and delivery of the government's policy objectives.

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