

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 2023 to 31 March 2024.

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 in a bio-diversity rich environment, 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 and habitats.

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 165 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 | 11 |
| National Park Authorities | 2 |
| Unitary Authorities | 60 |
| London Boroughs | 20 |
| Lower-tier Authorities (e.g. districts) | 70 |
| Other (e.g. Development Corporations) | 2 |
| TOTAL | 165 |

Number of Consultations Received

During the period 1 April 2023 – 31 March 2024 the Trust was asked to respond to **3,212** pre-application, planning and related application consultations. This figure includes:

- **676** 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 to which we chose to respond, and
- **762** 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 **1,438** consultations have been excluded.

The Trust therefore received a total of **1,774** pre-application and registered planning application consultations in England to which there was a duty to respond within the period 1 April 2023 to 31 March 2024. The figures reported below relate to these consultations:

| Consultation Type | Number of consultations received requiring a response in 2023/24 |
|--|--|
| Pre-application consultations received from LPAs | 88 |
| Pre-application consultations received from others | 89 |
| Registered planning application consultations received from LPAs | 1,597 |
| TOTAL | 1,774 |

Of these **1,774** statutory consultations received, the Trust did not receive sufficient information to enable us to make a substantive response to **15** of these consultations despite requests made. In addition, **28** more were determined by the LPA and a further **28** 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 **1,703** consultations as follows:

| Consultation Type | Number of consultations received requiring a response in 2023/24 |
|--|--|
| Pre-application consultations received from LPAs | 86 |
| Pre-applications received from others | 85 |
| Registered planning application consultations received from LPAs | 1,532 |
| TOTAL | 1,703 |

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 | 1326 | 70 | 60 | 1456 |
| No. of consultations in compliance with agreed extensions to the statutory deadlines | 182 | 15 | 16 | 213 |
| No. of application consultations in non-compliance | 24 | 1 | 9 | 34 |
| Total | 1532 | 86 | 85 | 1703 |

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 47% 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 | 4 | 12% |
| 2 – 3 days | 7 | 20% |
| 4 – 7 days | 5 | 15% |
| 8 – 14 days | 4 | 12% |
| 15 – 21 days | 2 | 6% |
| 22 – 28 days | 0 | 0 |
| > 28 days | 11 | 32% |
| No response made | 1 | 3% |
| 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 | 4 | 11 |
| Extension requested but not agreed | 10 | 29 |
| Public holidays | 0 | 0 |
| Delayed – Internal Consultations | 6 | 18 |
| Other or reason not specified | 13 | 38 |
| No Response | 1 | 3 |
| TOTAL | 34 | 100% |

Pre-application Consultations

In the period 1 April 2023 to 31 March 2024 the Canal & River Trust received a total of 171 pre-application consultations, which represents 10% of the total number of consultations requiring a response received. Of these, 86 (50%) were received from Local Planning Authorities (LPAs) whilst 85 (50%) were received from persons other than a Local Planning Authority.

Key Issues for the Trust as Statutory Consultee

The Canal & River Trust participated in the DLUHC statutory consultee rapid review carried out at the beginning of 2024. As part of that process, the Trust supplied a large quantity of information that set out the nature and roles of the Trust, our responsibilities, the importance of our role as a statutory consultee, its origins & our consistently high performance. In summary, the Trust identified the following key points.

Who we are

The Canal & River Trust (the Trust) is a registered charity, formed in 2012 to care for 3219 km (2000 miles) of canals and river navigations, docks and 72 reservoirs across England and Wales. The Trust is also a **statutory undertaker** and **landowner** with enhanced legal duties and liabilities due to the nature and open access of our network. We are:

- the largest navigation authority in the United Kingdom
- reservoir undertaker and owner
- custodian of heritage and protected environmental sites
- water resource manager (Including land drainage, water supply and flood risk mitigation)
- harbour authority
- developer and joint venture partner
- statutory consultee for planning applications and prescribed consultee for development consent orders (NSIPs).

What we do

We care for the canal & river network as:

- protector – supporting national infrastructure & public safety
- provider – free & accessible urban blue-green space on the doorstep
- a partner in place making.

Our role as a statutory consultee

The Trust's predecessor, the British Waterways Board (BWB), became a statutory consultee in March 1997, following a monopolies & mergers commission report in 1994 that recommended that BWB become a statutory consultee to improve its efficiency, to protect waterways from harmful effects of development and minimise BWB liabilities.

A review of the planning consultation process in 2009 by DCLG identified the need for BWB to remain as a statutory consultee. BWB reviewed its process and its notified area in 2011 and made changes to improve efficiency.

In July 2012, the Trust took over guardianship of BWB's canals, rivers, reservoirs and docks in England and Wales. Accordingly, it took over BWB's role as statutory consultee in relation to development likely to affect inland waterways owned or managed by the Trust.

In 2015, the government again established the benefit of retaining the Trust as a statutory consultee in its review of planning procedures and the publication of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO 2015).

In 2023, the Canal & River Trust completed a further review of its statutory consultee notified area and informed local authorities of the resultant changes, which took effect on 1 April 2023. The Trust introduced a three-tier approach where the proximity and size of proposed development relative to assets of significance to the Trust is used to determine the need for consultation. This enables the Trust and LPAs to focus consultations and advice on cases of greatest importance for the Trust's network and its protection & provision.

The area within which the Trust is consulted on householder applications was reduced, on the basis of evidence that such development further from the network has minimal significance to the Trust and often resulted in no comment responses to LPA consultations. A comparison of consultations and performance in 2022/23 and 2023/24, the years either side of the change to the notified area, shows that the number of householder consultations has reduced by 40%, whereas the overall number of consultations has reduced by only 8%. This demonstrates the Trust's continuing commitment to improving its efficiency and effectiveness through its statutory consultee role. This allows the Trust to direct its limited resources more effectively to protect and enhance its network.

In addition to the vital role that the Trust plays in protecting our assets, and by extension all those who rely upon them for their safety and welfare, as a statutory consultee, the Trust is also able to bring valuable insight and expertise in relation to other important planning issues. These include:

- Supporting wellbeing through access to green and blue space – we will continue to help local authorities and developers to provide communities with improved access to our network. In doing so, we will assist Government in meeting its commitments in the Environmental Improvement Plan 2023 in relation to access to green and blue space.
- Good design and beauty – we use our experience as a developer and partner in award-winning waterway developments as a basis for providing design & placemaking advice to local authorities and developers.
- Biodiversity Net Gain – we assist local authorities and developers in understanding the requirements of the biodiversity metric in relation to waterways and consider how our network can assist in the delivery of net gains to support nature recovery.
- Active Travel – we complement the role of transport and highway teams in local and regional authorities and Active Travel England by providing our expertise on how improvements to our towpaths can support sustainable development.
- Heritage – our knowledge enables us to provide advice on the waterway significance of the buildings, structures and areas within our network that are covered by heritage designations, supporting high-quality placemaking and the conservation and enhancement of this historic fabric, where relevant.

How we work

Whether advising on structural integrity or wider planning matters, the Trust approaches its role in the planning system with a pragmatic and solution-focused approach that strongly values the benefits that high-quality, sustainable development has brought to the rejuvenation of our waterways.

Objections are a last resort and only used where co-operation and engagement has failed to result in an acceptable development proposal. As a result of this, the Trust objected to only 1% of the consultations reported above, only objecting where there was an unresolved fundamental concern. The Trust is only involved in planning appeals in exceptional circumstances because we seek to co-operate and engage with applicants/appellants to resolve issues. The Trust has never had costs awarded against it because of the professional & targeted nature of its involvement in planning appeals.

The Trust submits responses requesting further information where the specific issues relevant to the Trust in relation to the proposed development have been considered by our planners and relevant experts as appropriate, and it is agreed that sufficient information has not been provided to enable the

Trust to make a substantive response (as is required by 22(4) of the Development Management Procedure Order). These requests are considered to be quite different from 'holding objections', which are not issued by the Trust. Frequently requests for further information often relate to matters relevant to the structural stability of the Trust's assets. Land stability is a recognised planning consideration under paragraphs 180 and 189 of the NPPF and the dedicated National Planning Practice Guidance on land stability.

Challenges

The Trust believes that frontloading the planning process is a positive way to influence good design and placemaking and provides the greatest opportunity for the protection of our network. 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. The Trust support greater encouragement of the use of pre-application advice opportunities, for developers and LPAs. The Trust are always willing to participate in LPA led pre-application services. The Trust is also able to offer pre-application advice direct to applicants.

The quality of information submitted with applications often leads us to request further details as it is not sufficient or lacking in detail. This often reflects poor attention to detail at registration and validation stages. Engagement with LPAs during the life of a planning application is often difficult, with re-consultation on amended proposals often delayed and/or rushed. The Trust seek to work proactively with LPAs, throughout the course of a planning consultation. We also seek to engage in local validation checklist consultations to ensure that requirements are fit for purpose. The Trust is always willing to support LPAs in the discharge of waterway related conditions, however liaison and communication is often difficult. The resourcing of LPAs to ensure the proper operation of the planning process are within the government's gift to address and doing so would benefit greatly those for whom protection of our network gives protection to their homes and daily pursuits.

Government providing a strong policy on land stability in the proposed national Development Management Policies document is considered to be one means of encouraging developers to take account appropriately of the issue of land stability at application stage in order to identify necessary mitigation and avoid delays later in the development process.

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, wellbeing and active travel 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 set out in the Environmental Improvement Plan. Our statutory consultee role makes an important contribution in this regard. We seek to 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. Promoting the benefits of our network so that its value is recognised and its benefits embedded and enhanced within planning decisions has become more difficult as changes to the S106 and CIL regime have been introduced, and as viability becomes a more common concern raised by developers. Future reviews of this element of the planning system should consider how to achieve a process that can ensure that the associated benefits of new development are properly realised at the appropriate point in the implementation of a scheme, and that they are funded adequately.

We also meet with other organisations who have a role in the planning system to identify ways in which we can benefit from a joined up approach to particular themes. Examples of this include working on

sustainable travel routes with Active Travel England (ATE) & Sustrans; working with Natural England and Defra on the Biodiversity Net Gain (BNG) metric; and working with TCPA and RTPi on profession related interests.

In conclusion

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.

Further information and evidence of the Trust's recent work can be found in our [Impact report](#), [Waterways & Wellbeing headlines report](#) and our [Waterways & Wellbeing technical report](#). Some relevant extracts from these can be found in the appendix at the end of this report.

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 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 look forward to engaging with the new government to discuss any future changes to the planning system and how they might assist the Trust in protecting and providing the best possible network of waterways for the benefit of the public in the future.

Data compiled June 2024

Contact Details

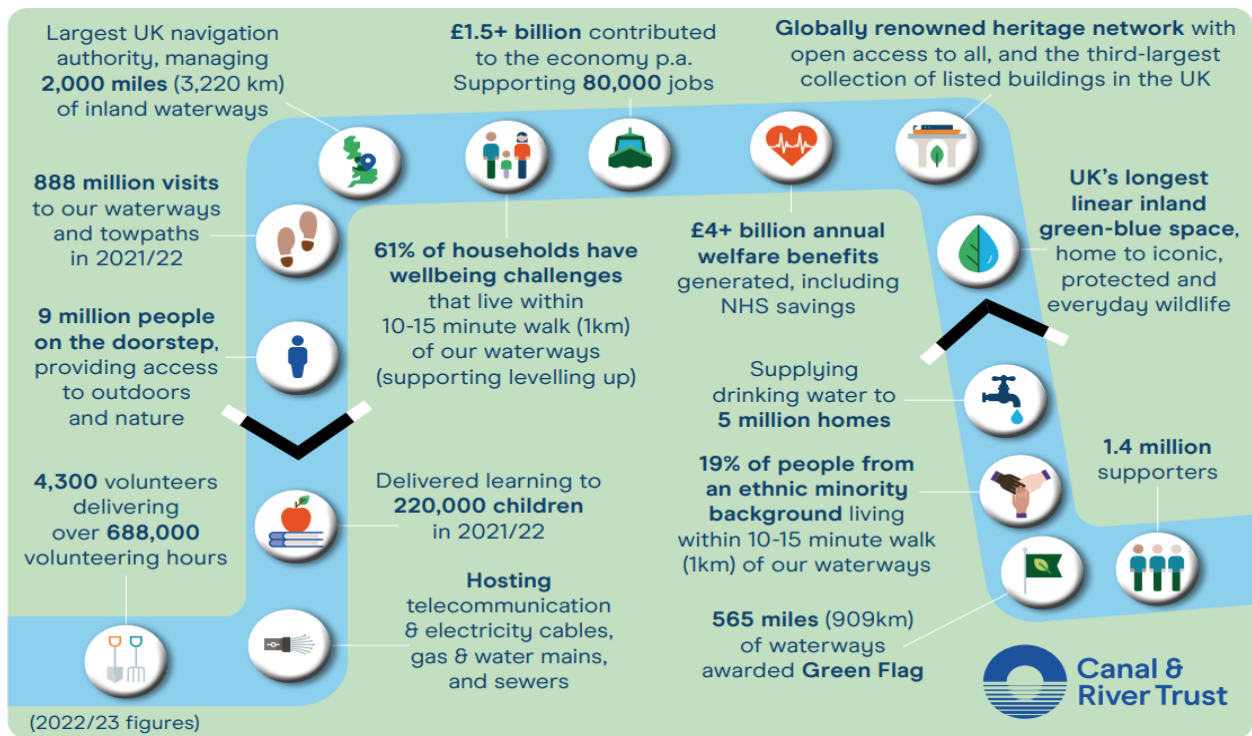
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APPENDIX: Extracts from the Canal & River Trust [Impact Report](#) 2021-2023

These extracts demonstrate the importance of, and public benefit created by the Trust and its assets.

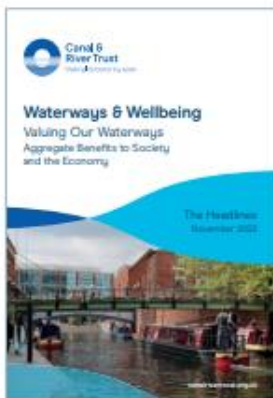


| PROTECTING | | |
|--------------------------------------|-------------------------------------|--|
| Embankment | Reservoir | |
| 840 sub stations protected | 387 sub stations protected | |
| 128 schools protected | 34 schools protected | |
| Railways protected at 570 locations | Railways protected at 55 locations | |
| Motorways protected at 114 locations | Motorways protected at 18 locations | |
| 370,294 people protected | 193,663 people protected | |
| 31,881 businesses protected | | |
| 122,428 properties protected | 80,693 properties protected | |



| Users & Visitors to the Trust's Waterways | 2019-20 | 2020-21 | 2021-22 | 2022-23 |
|---|--------------------|--------------------|--------------------|---------------------|
| Total Unique Visits | 677 million | 743 million | 786 million | 888 million |
| Number of Unique Visitors | 9.2 million | 8.3 million | 9.1 million | 10.3 million |

Since 2019 the number of unique visits has grown by over 30%, attracting 10.3 million visitors and 888 million 'unique visits' during 2022/23.



Annual Social Value



Aggregation of Annual Welfare Benefits

Annual Economic Value



Contribution to the Economy

Asset Protection Value



Asset Protection Value Benefits

Intrinsic Value



Not Readily Monetisable