



## 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 2016 to 31st March 2017

### 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.*

The requirement is set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

In preparing a substantive response, the Trust seeks 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
Greater London Authority	1
County Councils	17
National Park Authorities	3
Unitary Authorities	52
London Boroughs	18
Non Unitary Authorities	78
Other – UDC’s, Olympic Legacy etc.	1
<b>TOTAL</b>	<b>170</b>

## Number of consultations received

The Trust received a total of 2259 pre-application and registered planning application consultations in England to which a response was required within the period 01 April 2016 to 31 March 2017. This figure includes 549 consultations to which the Trust has no statutory duty to respond but where we consider it appropriate to do so we have responded in order to protect our assets and/or where the consultation falls within our notified areas for consultation. This figure includes applications for Listed Building Consent, applications for the Discharge of Conditions, EIA Scoping consultations etc. For the purposes of the remainder of this report, these consultations have been excluded.

The Trust therefore received a total of 1710 pre-application and registered planning application consultations in England to which there was a duty to respond within the period 01 April 2016 and 31 March 2017. The figures reported below relate to these consultations:

Consultation Type	Number of consultations received requiring a response in 2016/17
Pre-application consultations received from LPAs	79
Pre-applications received from others	62
Registered Planning Application Consultations received from LPAs	1569
Planning Application Consultations received from others	0
<b>TOTAL</b>	<b>1710</b>

Of these 1710 statutory consultations received, the Trust did not receive sufficient information to enable us to make a substantive response to 14 of these consultations despite requests made. A further 10 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 1686 consultations as follows:

Consultation Type	Number of consultations received requiring a response in 2016/17
Pre-application consultations received from LPAs	75
Pre-applications received from others	62
Registered Planning Application Consultations received from LPAs	1549
Planning Application Consultations received from others	0
<b>TOTAL</b>	<b>1686</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	1306	62	45	1413
No. of consultations in Compliance with statutory deadlines & agreed extensions	197	7	14	218
No. of application consultations in non-compliance	46	6	3	55
<b>TOTAL</b>	1549	75	62	1686

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.

This response rate is 8% higher than reported in 2015/16 which is a significant improvement. There are two principal factors which have contributed to this increase in the overall response rate:

- **Introduction of a new Planning Database.** In July 2016 a bespoke database which holds all the information and the documentation for each consultation received by the Trust was launched. This has had a positive effect on the processing of consultations and has contributed to the improved response rates.
- **Internal capacity and capability.** 2016/17 saw a reasonably settled period in staffing levels within the team, which again contributed to the significant improvement in response rates.

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

A substantive response to 55 consultations was not provided by the Trust within 21 days of receipt and/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	8	15
2 – 3 days	10	18
4 – 7 days	8	15
8 – 14 days	11	20
15 – 21 days	8	15
22 – 28 days	4	7
> 28 days	4	7
No response made/date not properly recorded	2	3
<b>TOTAL</b>	55	100

The reasons for non-compliance are below:

<b>Principal reasons for non-compliance</b>	<b>No. of Consultations</b>	<b>%</b>
Amendments subsequently received	1	2
Resourcing issues e.g. annual leave, sick leave, internal consultations	27	49
Extension requested but not agreed	8	15
Public holidays	1	2
Other or reason not properly recorded	18	32
<b>TOTAL</b>	<b>55</b>	<b>100</b>

## **Pre-application Consultations**

In the period 01 April 2016 to 31 March 2017 the Canal & River Trust received a total of 136 pre-application consultations, which represents 8% of the total number of consultations requiring a response received. Of these 75 (4%) were received from LPAs whilst 61 (4%) 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. 8% 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 6% was reported. However, this is still a relatively low number of pre-application consultations and it remains a key concern for the Trust. It is very important for Local Planning Authorities and developers to recognise from the outset that new waterside developments place extra liabilities and burdens upon the Trust and addressing these issues at the pre-application stage will be beneficial.

Early engagement with the Trust also allows the identification of issues such as structural integrity and flooding matters which can affect the delivery of schemes. The Trust considers that it is important for such matters to be raised early in the process.

We are 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.

2. In the period 1<sup>st</sup> April 2016 to 31 March 2017 the Trust received 477 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 14 consultations in 2016/17 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 statutory consultee
- Make appropriate comments on future applications given the site history

It would be helpful if LPAs 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. It would also be helpful if electronic copies of planning obligation agreements were to be made available.

Finally we would like to reiterate our commitment to working with the DCLG 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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