

Response ID ANON-UXA2-VP73-G

Submitted to Reforms to the statutory consultee system
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Introduction

1 What is your name?

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3 What is your organisation?

Organisation:
Tonbridge and Malling Borough Council

4 Please indicate in what capacity you are responding to this consultation (please only select one)

Local planning authority

Ensuring the system of statutory consultation supports economic growth

1 Are there other key areas we should be considering in relation to improving the performance of statutory consultees?

Q1 of the consultation:

In terms of issues affecting Local Planning Authorities (LPA) it is usually the turnaround times from statutory consultees which is the biggest issue. Having timely consultation responses would improve decision making times. Also, clear publication of standing advice and when this is applicable and also some guidance or examples in respect to how to apply the standing advice. The EA standing advice is somewhat difficult to follow and could be simplified.

2 In exploring reforms to the system, we have so far focussed more on key national statutory consultees. Is there more that government should do in relation to minor and local statutory consultees?

Q2 of the consultation:

Again, it is the turnaround times of smaller scale and local statutory consultees. The timely receipt of comments would improve decision making times. However, this may change with the Local Government Restructure which will remove two tier authorities.

Reviewing the scope of statutory consultation in the Town and Country Planning Act regime

3 In light of the proposed mitigations, do you support the removal of Sport England as a statutory consultee?

Oppose

Q3 of consultation:

The number of applications which this would affect is not significant. However, we would expect Sport England to still be a consultee on applications which affect indoor or outdoor sports facilities.

The use of policy and making Sports England a consultee for Plan making is supported if they are removed as a Statutory consultee.

4 In relation to notification requirements for Sport England, should substantial loss of an existing playing field be defined as: 20%; a figure below 20%; a figure above 20%; an alternative approach. Please explain your answer/reasoning if possible.

An alternative approach

Q4 of the consultation:

Whilst providing a figure for significant would result in more certainty, developers will aim to apply for losses just below the threshold to avoid consultation. In addition, a 20% reduction of a small playing field would be significant if it makes that field unusable. Compare this to a large playing field with multiple pitches where a 20% loss may not be significant. This should be left to the LPA to decide what significant is.

5 Are there impacts of the removal of Sport England as a statutory consultee, or the proposed mitigations, that you think the government should take into account in making a final decision?

Q5 of the consultation:

Inevitably there will likely be added pressures on small playing fields which affect rural communities. The Government should assess the impact on those fields which would fall short of the mitigation thresholds and consider whether there are any policy changes which are required to protect the playing fields which would not be subject to Sports England assessment.

6 In light of the proposed mitigations, do you support the removal of The Gardens Trust as a statutory consultee?

Neutral

Q6 of consultation:

7 Are there impacts of the removal of The Gardens Trust as a statutory consultee, or the proposed mitigations, that you think the government should take into account in making a final decision?

Q7 of the consultation:

The Gardens Trust should still be a consultee on Grade II Parks and Gardens to provide their invaluable feedback on applications affecting those designations.

8 In light of the proposed mitigations, do you support the removal of Theatres Trust as a statutory consultee?

Neutral

Q8 of the consultation:

9 Are there impacts of the removal of Theatres Trust as a statutory consultee, or the proposed mitigations, that you think the government should take into account in making a final decision?

Q9 of the consultation:

The Theatres Trust do not respond to many applications within Tonbridge and Malling. If the premise of this consultation is to quicken the development management process, there are probably more efficient options than removing the Theatre Trust as a statutory consultee.

Removal of other statutory consultees

10 Are there other statutory consultees for which we should consider removal? What evidence would support this approach?

Q10 of the consultation:

None.

Reforms to key statutory consultees

11 Do you support the proposed changes to National Highways' referral criteria?

Unsure

Q11 of consultation:

The proposed change to require only development which requires a Transport Assessment is a subjective requirement and open to interpretation. This is not helpful where an objective criterion should be provided to ensure certainty for all stakeholders. Also, the requirement for "applications with potential safety impacts related to trunk roads should continue to be referred" require specialist transport planning knowledge which some Local Planning Authorities do not have inhouse. It is appreciated there could be a triage system however this may not cover every eventuality. This could delay applications if the Local Highway Authority recommends consultation with Highways England if it believes there could be safety impacts on the strategic road network.

12 Is there anything else we should consider in relation to the role of National Highways as a statutory consultee?

Q12 of the consultation:

None.

13 Do you support the changes to Active Travel England's proposed referral criteria?

Yes

Q13 of consultation:

It is welcomed that the threshold for residential development has increased. Also, the introduction of schools or college development with a threshold of 750m2 would also assist with providing valuable expertise on sustainable travel for these developments which attract large trips to and from site.

14 Is there anything else we should consider in relation to the role of Active Travel England as a statutory consultee?

Q14 of the consultation:

None.

15 Are there other actions that the government and/or Natural England should be taking to support their role as a statutory consultee?

Q15 of the consultation:

Clearer standing advice and better communication of changes to that advice. It would be advisable for NE to provide training to Local Planning Authorities on the SSSI they have within their authority boundaries and the issues which affect them as each SSSI has a different reason for its designation and therefore different reasons and methods for protecting them. If training could be provided on these nuances for each SSSI then the standing advice provided would make more sense and also empower officers to make decisions based on the advice and training they receive, reducing the number of cautionary consultations by LPAs.

16 Are there other actions that the government and/or the Environment Agency should be taking in relation to the Agency's role as a statutory consultee?

Q16 of the consultation:

Make it more clear or change the description of 'minor development' so there is less confusion on what needs to be consulted on and not. A more user-friendly standing advice should be provided. The current matrix whilst comprehensive is difficult to use. The consideration of both the permitting and planning stages of specific types of development is welcomed. Better mapping of other planning considerations other than flood risk. It is not always clear using the Defra Magic Map what layers are required to ensure consultations for developments which could affect ground and drinking water are correctly placed with the EA.

17 Do you support the changes to Historic England's proposed notification criteria?

Yes

Q17 of consultation:

Yes, whilst there is some concern in increasing the threshold for the consultation requirement for Conservation Areas to 2000m² due to the impact of such development on smaller Conservation Areas and not being able to seek specialist advice. The other changes do not significantly affect the approach TMBC takes when consulting Historic England.

18 Do you support changes to align Historic England's listed building consent process in London with the process that applies elsewhere?

Unsure

Q18 of the consultation:

No comment.

19 Is there anything else we should consider in relation to the role of Historic England as a statutory consultee?

Q19 of the consultation:

No further comment.

20 Do you support the changes to the Mining Remediation Authority's proposed referral criteria?

Unsure

Q20 of consultation:

No comment.

21 Do you support the proposed changes in relation to the Mining Remediation Authority commenting on the discharge of conditions?

Unsure

Q21 of consultation:

No comment.

22 Is there anything else we should consider in relation to the role of the Mining Remediation Authority as a statutory consultee?

Q22 of the consultation:

No comment.

Other changes to statutory consultees

23 Are there other statutory consultee referral criteria we should consider amending? What evidence supports this?

Q23 of the consultation:

No, the current referral system is generally fit for purpose.

24 Is there anything further that government should consider in relation to voluntary pre-application engagement and for any statutory consultees in particular? What evidence supports this?

Q24 of the consultation:

Statutory consultees should be obliged to provide pre-application advice to developers to ensure that any technical issues can be resolved prior to the application submission. The back and forth between the applicant and the statutory consultee on major applications is one of the biggest delays in the planning system. Inadequate submissions and unknown expectations of consultees can result in developments which are acceptable in principle taking longer to determine than statutory time period. From experience those applications which have had significant pre-application discussions with statutory consultees generally take shorter periods to determine. It is important that LPAs are aware of the statutory consultees pre-application responses and this should be encouraged.

25 Is there anything further government should consider in relation to statutory consultee engagement in post-approval processes, such as agreeing that planning conditions have been fulfilled? What evidence supports this?

Q25 of the consultation:

Again, clear and precise conditions laying out what is required in the submission of planning conditions can help reduce negotiation of conditions applications. Linking this to the previous question having pre-application advice which provides clear expectations could help quicken the application process and build out rates by allowing applicant to submit technical details up front and these details being secured by compliance condition rather than further submissions.

Statutory consultee performance

26 Do you have suggestions for how government can effectively incorporate appropriate developer and local authority feedback into consideration of statutory consultee performance?

Q26 of the consultation:

Statutory consultees could provide forums or regular meetings with local authorities and developers to discuss local issues, allow for the provision of feedback, quality of technical submissions, to provide updates on improvements or changes to the consultation system. Currently statutory consultees appear distant and aloof with little in the way of any collaborative working with local authorities. When there are issues with consultation response times, from experience these issues are not communicated very well to local authorities, and therefore expectations of developers and the local community cannot be managed.

The role of local planning authorities

27 Do you agree with this approach?

No

Q27 of the consultation:

No. The additional costs passed on to developers will result in reducing the viability of development scheme to the detriment of other planning benefits. Such costs could result in developments resulting in lower affordable housing provision, lower amounts of funding secured for infrastructure provision. The viability of scheme has reduced in recent years due to inflation of building materials and increased wage growth, with stalling house prices. This has squeezed developers margins meaning less money is available for local authorities to secure planning benefits in the form of affordable housing or local infrastructure.

28 Is there anything else the government should be doing to support local planning authorities in their engagement with statutory consultees?

Q28 of the consultation:

Government could consider punitive measures, similar to local authorities, for consultees that regularly miss their consultation deadlines without reasonable reasons for doing so.

29 Are there best practice examples from local authorities that help support statutory consultees and developers, e.g. checklists/proformas for environmental issues?

Q29 of the consultation:

The collaborative working on providing supplementary planning documents and pre-emptive mitigations measures, such as the Thames Basin SPA mitigation measures that Thames Basin LPAs have agreed with Natural England are a good working example of how local authorities and statutory consultees can be engaged to provide a policy basis for dealing with environmental issues. This provides clarity and certainty for developers in how certain environmental issues can be addressed.

30 How might best practice be expanded to support statutory consultees, including through reducing the volume of material which developers have to produce?

Q30 of the consultation:

More engagement in local plan making and supplementary guidance for local plan policies should be expanded and local authorities and statutory consultees can work together to come up with policy-based mitigation measures for certain planning issues. Whilst it is recognised that this may not be appropriate for all environmental mitigations or other types of mitigation, but further exploration of this type of engagement should be considered.

31 How best can government and statutory consultees support the increase in capacity and expertise of local and strategic authorities?

Q31 of the consultation:

Better training and engagement of statutory consultees with local authority planners providing basic training on issues regularly raised at planning application stage can help improve planners understanding of consultation responses and the issues contained in them and reduce back and forth in terms of clarifying responses or seeking further advice on additional submission. Planners need to have a general understanding of the issues before them, to understand and be able to feed back to developers what issues remain with applications. Rather than having to learn about specific issues when they come across them at application stage, it would be useful for planners to have training on issue likely to affect their applications in particular areas from statutory consultees on these issues and how they are addressed practically so they have a working knowledge.

Moratorium on new statutory consultees

32 Do you agree that these criteria clearly set a framework for decisions on future statutory consultees?

Unsure

Q32 of the consultation:

Any further regulation of the planning system should be dealt with, in the first instance, through engagement with the local plan and should be policy based to provide clarity and certainty for developers and planners. It is agreed there should be no duplication of function as this can cause issues where two statutory consultees can disagree on a subject. As with any public policy issue there should be clear public benefit if a new consultee is proposed and this should be evidenced through a cost benefit analysis. Potential consultees should be provided with sufficient funding to ensure that they can fulfil their statutory obligations and evidence of the public benefit the further consultation would provide provided.

33 Should the government maintain the moratorium, subject to periodic review, or adopt criteria for consideration of new statutory consultees?

Q33 of the consultation:

In the last 10 years, various environmental planning policies have increased the burden on developers in terms of reports and expertise they need to source, whilst the increased policy burden has increased the burden on local authorities and planners in terms of what they need to consider and source the required expertise to assess the impacts of development. Whilst a moratorium would reduce the planning systems ability to react to changes, a periodic review of the consultation requirements would be welcomed to ensure that the planning system is fit for purpose.

34 Is there anything else the government should consider in relation to the criteria?

Q34 of the consultation:

There must be a clear public need and policy basis for the new statutory consultee and the need should be clearly evidenced.

Impact

35 Are there any equality impacts in relation to the proposals in this consultation that the government should consider?

Q35 of the consultation:

No comment.

36 The government considers that these measures would have a deregulatory impact. Do you have evidence from engagement with statutory consultees under the current system of the impact this may have?

Q36 of the consultation:

Given the limited number of consultations these changes would have and therefore the limited number of planning applications that these changes would impact on, whilst it is agreed there would be a deregulatory impact on the system it would be very limited.

37 Based on the proposed changes to referral criteria, would statutory consultees expect to see performance improvements? Please explain your reasoning.

Neutral

Q37 of the consultation:

Whilst there may be some improvements these would not be significant, and the changes proposed affect only a small number of applications determined by LPAs.