

HISTORIC ENGLAND

REFORMS TO THE STATUTORY CONSULTEE SYSTEM

QUESTIONS

COST RECOVERY MEASURES FOR NSIPs

Question 1

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

No response

SPORT ENGLAND

Question 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 smaller scale and local statutory consultees?

No response

Question 3

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

- support
- oppose
- neutral

No response / neutral

Question 4

In relation to notification requirements, 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

No response

Question 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?

No response

THE GARDENS TRUST

Question 6

In light of the proposed mitigations, do you support the proposals to remove The Gardens Trust as a statutory consultee?

- support
- oppose

- neutral

Neutral

Question 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?

Historic parks and gardens are a key part of our cultural heritage, and the consultation recognises that access to culture is an important driver of local growth and access to open green spaces is crucial to the nation's health and wellbeing. Historic parks and gardens are at the heart of green infrastructure in our towns and cities and also provide valuable opportunities for access to green space and nature in rural areas. The contribution that they, and other green spaces, make to people's wellbeing was especially highlighted during the pandemic, particularly in areas where there is limited access to private gardens. Parks and green spaces are also crucial to the pride people feel in their local area. A 2021 survey by Public First asked people what is it that fosters pride in their local area, and the most popular response was parks and green spaces. This was replicated in a recently published voter attitudes survey by More in Common.

As a statutory consultee for all grades of Registered Parks and Gardens, The Gardens Trust plays an important role in the planning system by supporting local authorities with expertise that is rarely available within their own historic environment teams. The proposals seek to align the protection of Registered Parks and Gardens with existing regulations that protect other designated heritage assets, by removing their statutory consultee status and replacing it with a requirement for them to be notified of proposals for development within Registered Parks and Gardens. This arrangement is intended to parallel the listed building consenting regime. In practice, this would ensure The Gardens Trust will continue to provide a similar role for development within the boundary of Registered Parks and Gardens as it does now.

The proposal to not require local planning authorities to notify the Gardens Trust of development proposals potentially affecting the setting of Registered Parks and Gardens, however, represents a reduction in the current level of protection. Historic parks and gardens usually have an important relationship to their setting. This relationship makes a key contribution to their historic interest and significance, which is always site-specific. Based on data collected by the Gardens Trust, approximately 40% of applications they receive are related to potential development impacts in the setting of Registered Parks and Gardens of all grades.

Historic England is a statutory consultee for all applications affecting Grade I and II Registered Parks and Gardens, but the proposals would leave local planning authorities without any specialist advice on potential impacts related to proposed development within the setting of Grade II Registered Parks and Gardens. We estimate that these amount to approximately 20% of the applications received by The Gardens Trust, or approximately 300-350 applications per year (although in practice Historic England is likely to be a statutory consultee on some of these, for other reasons). This would amount to a reduction in heritage protection for these important and much-loved heritage assets, whose character and significance is often sensitive to development within their setting. **For this reason, it would be in the interest of maintaining the current level of heritage protection for the Gardens Trust to also be notified of applications for development that may affect the setting of Registered Parks and Gardens under the proposed new arrangements.***

We appreciate MHCLG's desire to create a parallel with the listed building consent regime, but there are material considerations relating to the capacity of local planning authorities that need to be considered when determining whether to notify The Gardens Trust. Local planning authorities have little to no in-house specialist expertise on historic designed landscapes in a planning context, whereas the majority have access to specialist historic building advice. We would like to explore with MHCLG how to bridge this potential gap in heritage protection, especially in the context of limited local authority capacity and expertise with relation to historic designed landscapes.

THEATRES TRUST

Question 8

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

- support
- oppose
- neutral

Neutral

Question 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?

The Theatres Trust is an expert organisation that has a valuable role in ensuring that full account is given to the importance of theatres in planning decisions. Introducing a provision of for the Theatres Trust to be notified of (instead of consulted on) applications for development on land on which there is a theatre has the potential to mitigate the loss of the Theatres Trust's status as a statutory consultee. We note that Historic England will continue to be consulted on works to theatres listed at Grade I and II, while the national amenity societies will be notified of certain works to all listed theatres - while also noting that the Theatres Trust deal with theatres and theatre in general rather than with historic buildings in particular.*

The consultation states that "theatres have high community value". In light of that, and as changes are currently being proposed to the definition of Assets of Community Value (ACV), creating a subset of ACVs (as being proposed for sporting assets) for theatres might represent significant additional protection for these important cultural assets.

REMOVAL OF OTHER STATUTORY CONSULTEES

Question 10

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

No response

NATIONAL HIGHWAYS

Question 11

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

No response

Question 12

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

No response

ACTIVE TRAVEL ENGLAND**Question 13**

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

No response

Question 14

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

No response

NATURAL ENGLAND**Question 15**

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

An additional action would be to take steps to ensure that strategic spatial mechanisms such as Local Nature Recovery Strategies and the forthcoming Land Use Framework include consideration of heritage. This would help meet the commitment within Historic England's Joint Statement with Natural England and the National Lottery Heritage Fund (Integrating the Management of the Natural and Historic Environment) and the Environmental Improvement Plan 2025 ("Deliver multifunctional benefits from England's land, such as enhanced natural and cultural heritage") and assist better alignment between environmental Arms-Length Bodies.

ENVIRONMENT AGENCY**Question 16**

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

No response

HISTORIC ENGLAND**Question 17**

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

Yes, we feel the proposals represent a proportionate measure to streamline the planning process in a way that ensures that proper consideration is given to the role heritage plays in creating sustainable outcomes for places. The proposed changes would reduce some administrative time and enable Historic England to focus more of its expert planning advice on the most impactful cases.

Question 18

Do you support changes to align the listed building consent process in London with the process that applies elsewhere?

Yes.

Question 19

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

Historic England's role as a statutory consultee is designed to support the planning system to deliver sustainable development (recognising that economic growth and the conservation of the historic environment are complementary objectives). The proposals outlined in the consultation will allow us to continue to fulfil that role, but there are some steps would improve the efficiency of its delivery:

- *Issue guidance to local planning authorities that explicitly encourages the early and continued engagement with statutory consultees (e.g. Historic England). Earlier engagement will be both more cost effective, and help to ensure, for example, that local plans are informed by an understanding of the opportunities inherent in local heritage.*
- *Where masterplans with design codes are prepared that include the need to conserve the setting of identified heritage assets, compliance with the masterplan and code would enable us to reduce our engagement in subsequent applications within the site. This would be particularly relevant for strategic developments involving multiple phases, each with their own planning applications including New Towns (this would not apply to works to the designated heritage assets themselves).*
- *Increase the use of National and Local Listed Building Consent Orders which offer the opportunity to reduce the need for some listed building consent applications.*
- *Local Development Orders could be reformed to encompass listed buildings where there is a corresponding Listed Building Consent Order. Whilst we would still wish to be consulted should the proposals fall within the thresholds for consulting us, this reform would simplify the planning process by reducing the number of approvals required.*
- *A system of digital consultation for statutory consultees would have the potential to achieve significant efficiencies. A digital consultation system could:*
 - (i) Remove the need for Historic England to recreate data manually in our own casework management system.*
 - (ii) Help to ensure that we would be consulted only about those applications which fall within our remit.*
 - (iii) Allow us to respond directly to the consulting body.*
 - (iv) Enable us to track the progress of applications to their determination, improving our understanding of the impact of our advice.*
- *Additional resource would enable us to make much needed investment in our IT casework management system. This investment could allow us to ensure it can incorporate further digital tools, such as the integration of AI.*
- *Dealing with a wide variety of different systems or standards operated by different local planning authorities across the country impedes our efficiency. The creation of standards for the consultation of statutory consultees on digital local plans would improve the efficiency and consistency of statutory consultee engagement with the plan-making process.*
- *There is potential for Historic England to provide more support to local planning authorities. With additional resource, we could develop more bespoke training and guidance that would help improve the decision-making and improve the efficiency of the planning system.*

THE MINING REMEDIATION AUTHORITY

Question 20

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

No response

Question 21

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

No response

Question 22

Is there anything else we should consider in relation to the MRA as a statutory consultee?

No response

THE HEALTH AND SAFETY EXECUTIVE

Question 23

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

No response

Question 24

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

No response

Question 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?

HE very rarely engages in any post approval processes.

STATUTORY CONSULTEE PERFORMANCE

Question 26

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

Historic England runs a stakeholder programme with developers and their agents to strengthen relationships and encourage pre-application engagement. To help facilitate this type of shared understanding, MHCLG might consider hosting annual statutory consultee / developer / government roundtables to support this type of engagement across the whole planning system. This would be chaired at a senior Ministerial level and focus on identifying blockages within the system and proposing solutions.

THE ROLE OF LOCAL PLANNING AUTHORITIES

Question 27

Do you agree with this approach?

Whilst recognition of the funding shortfall is important, and steps being taken to both correct it and mitigate its impacts sensible, there is also a need to change the culture within local government that sometimes undervalues the contribution that expert historic environment advice makes to the development of successful places. Reductions to local authority funding over recent years has had a significant impact on local historic environment services reducing the effectiveness of that advice. Greater recognition of the valuable role this of expertise plays in creating successful places should be recognised to help both improve morale of the current sector, and to encourage graduates to enter it.

Question 28

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

The need for a stronger training offer is recognised above (Question 19), and it is one that is not unique to the heritage sector. Government could support local planning authorities in their engagement with statutory consultees through facilitating a co-ordinated statutory consultee training offer. One example of this in action is the two joint MHLCG/Planning Advisory Service events being held in January/February this year to collect local planning authority and statutory consultee views on ways of working in relation to the TCPA statutory consultation process. We would encourage government to develop and promote more initiatives of this nature to enable local authorities to access and make best use of the support offered by statutory consultees.

Question 29

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

There are several examples of approaches taken by local authorities that improve the effectiveness of statutory consultee involvement, in particular the [checklist](#) provided by the Peak District National Park for when to seek pre app advice. This provides users with an indication of where and how pre-application could be a useful tool and provides specific examples that relate directly to the landscape of the national park and its archaeology/historic landscape.

Question 30

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

Local planning authorities should regularly refresh their understanding of the consultation requirements, to limit unnecessary consultation. (Historic England expects that it will receive fewer unnecessary consultations if the proposed changes to consultations it receives relating to buildings listed at Grade II are made, as the new requirement will be clearer.)

Question 31

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

Please see the response to Question 28 with regards to a co-ordinated statutory consultee training offer.

MORATORIUM ON NEW STATUTORY CONSULTEES

Question 32

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

No response

Question 33

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

No response

Question 34

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

No response

IMPACT

Question 35

No response

Question 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?

The proposed changes to the consultations received by Historic England would have a modest deregulatory impact, both by slightly simplifying the work of local authorities (while still ensuring that they sought specialist advice in the most relevant cases) and by simplifying that of Historic England. The removal of Historic England's role in the authorisation of listed building consent in London would be a deregulatory act, which would significantly simplify the process of listed building consent in London.

Question 37

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

- strongly agree
- agree
- neutral
- disagree
- strongly disagree

Agree

Historic England already performs well. We respond to more than 99% of consultations within 21 days or an agreed extension (and the rate of extension is low). We provide constructive advice to support the planning system. The proposed reduction by c.20% in the number of consultations we receive would enable us to work more efficiently. We could continue to provide advice on the most important cases but would no longer have to log a significant number of consultations which for the most part do not meet our threshold for engagement.