



## **BPF RESPONSE TO MHCLG'S CONSULTATION ON REFORMING THE ROLE OF STATUTORY CONSULTEES IN THE PLANNING SYSTEM**

---

**PREPARED AND SUBMITTED BY**  
Sam Bensted  
Assistant Director (Planning and  
Development)  
E: [sbensted@bpf.org.uk](mailto:sbensted@bpf.org.uk)

## British Property Federation

1. The British Property Federation (BPF) represents the real estate sector – an industry which contributed more than £116bn to the economy in 2020 and supported more than 2.4 million jobs. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers and developers of real estate as well as those who support them. Their investments help drive the UK's economic success; provide essential infrastructure and create great places where people can live, work and relax.
2. We welcome the opportunity to respond to MHCLG's consultation on reforming the role of statutory consultees in the planning system. The proposals set out represent a step in the right direction. However, there are a number of wider and relevant factors that must also be addressed to improve the overall effectiveness of the statutory consultee role in the planning process. These include the importance of empowering local authority planning officers to take decisions, ongoing resourcing challenges within local planning authorities, the quality and consistency of responses provided by statutory consultees as well as how these measures align with the Government's wider planning reform agenda. We expand on these points in our general comments below and in response to the consultation questions.

### General comments

#### Empowering local authority planning officers to take decisions

3. A key piece of feedback from our membership was that enabling local authority planners to take effective planning decisions will be crucial in improving the planning decision making process. It was noted that too often statutory consultee advice can act as a veto on an application rather than a piece of information that local authority planning officers should weigh and factor into the wider planning judgement around a scheme. We note the positive changes in the NPPF relating to setting out how local authority planners should weigh statutory consultee advice, which is a step in the right direction. More broadly, it would be better if the general approach from certain statutory consultees was to engage positively with an application, with a culture focused on helping to find solutions rather than simply identifying problems.

#### Quality of responses more important than hitting arbitrary deadlines

4. We note that much of the consultation paper focuses on changes to reduce the overall number of applications being referred to certain statutory consultees to drive down overall timescales. We are fully supportive of reducing the number of unnecessary applications that get referred to statutory consultees, but would also note that a sole focus on meeting a set timescale is not helpful on its own. What matters more to applicants is receiving a quality response from the relevant statutory consultee which is useful in providing solutions on how to take an application forward. A developer would be willing to wait an extra week or two if it meant that clarity was provided on a way forward.

### Shifting statutory consultee culture to engage positively and proportionally with applications

5. It would be better if the general approach from certain statutory consultees was to engage more positively with applications, with a culture focused on helping to find solutions rather than simply identifying problems. Too often at present this is a functional engagement approach, rather than any form of proactivity in finding solutions to move schemes forward where appropriate. There should also be a focus on stripping away unnecessary duplication and ensuring that statutory consultee advice focuses only on planning matters, rather than extending into non planning matters such as licensing.

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

6. As noted above, we believe there is more work to do around making sure local authority planners can take decisions more confidentially and weigh statutory consultee advice appropriately. It will be important that they have the skills and expertise to do so meaning that planning authority resourcing will be an important aspect to this.

### 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?

7. No specific comments

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

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

- support
- oppose
- neutral

8. Support.

### 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.

9. No specific comment

**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?

10. Our members strongly support removing Sport England as a statutory consultee in the planning process. Whilst there will remain instances where applicants will want to engage the body and its input will be helpful for applicants and local planning authorities, there is no need for this interaction to be on a statutory footing.

11. We received feedback from members on interactions with Sport England which went to the heart of the consultation aims in terms of making the statutory consultee planning process more effective and proportionate. One example was Sport England requesting a ball strike assessment at the outline application stage, where this level of detail is clearly not needed when only the broad parameters of the development proposals are being established. More guidance generally from government, or within statutory consultees themselves, on what information should be requested at the outline planning stage would be welcome.

**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

**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?

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

- support
- oppose
- 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?

12. We are generally supportive of the government's proposals to reduce the overall number of statutory consultees, although we do not have strong views on the effectiveness or performance of either the Theatres Trust or the Gardens Trust.
13. At our member roundtable, it was noted that both organisations have expertise to offer on certain applications and should still be able to get involved where appropriate. Like Sport England, we think that any engagement with these two should be on an 'as needed' non-statutory footing.
14. It was also noted by members that the Theatres Trust is responsive and, when looking at the statistics, could be viewed as a consultee which responds in a timely manner.

## Removal of other statutory consultees

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

15. A number of members suggested that there would be value in removing Active Travel as a statutory consultee. This would be for similar reasons to the rationale behind removing Sports England, with numerous examples cited of unnecessary complexity being introduced into the planning application process where it is simply not necessary.

## Reforms to key statutory consultees

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

16. We are supportive of reducing the overall amount of applications being referred.

**Question 12** Is there anything else we should consider in relation to National Highways as a statutory consultee?

17. As noted in our earlier comments, whilst it is welcome to reduce the overall number of applications being referred to statutory consultees, what is much more important for our members is how organisations such as National Highways approach applications in general terms.
18. Frustrations include National Highways placing holding objections on applications, which can remain in place for indefinite periods of time. This can stall the overall development process and bring applications to a halt. The bigger issue therefore reflects the point made in our general comments, namely the need for certain statutory consultees to move away from acting as blockers and towards an approach where they proactively engage to find solutions to take development forward.

19. Further comments included suggestions that there would be value in greater consistency in the modelling systems used for planning applications in relation to highways. Having more consistent data inputs would help speed up the process, as all parties would be using the same system. Another notable point was the need to consider National Highways' involvement in the development process beyond the planning stage. In many instances, National Highways is responsible for delivering enabling infrastructure that must be completed before a scheme can be built out or occupied, and delays to this infrastructure can also impact the ability for a development to be completed.

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

20. We are generally supportive notwithstanding our overall comment re Active Travel.

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

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

**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?

21. We would reiterate the points made above regarding National Highways. It is not simply about reducing referrals, but there also needs to be a focus on better quality responses and interactions. Members noted that the Environment Agency could be more collaborative post submission, with it often being challenging to secure a meeting.

22. It was also noted that engagement following the submission of an application can be challenging in relation to pre commencement conditions.

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

23. We are generally supportive.

**Question 18** Do you support changes to align the listed building consent process in London with the process that applies elsewhere?

24. We are supportive.

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

25. Given the proposed changes, it was noted that a lack of expertise across certain local authorities on heritage and conservation matters could be a challenge for effective decision-making.

## 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?

26. Members fed back that there is potentially a role for government and industry bodies to work together to collate case studies which demonstrate key challenges and blockers in the statutory consultee process. That is to say, whilst overall performance metrics will of course be important in keeping standards high, there is also arguably a role for clear examples from within planning practice where good or bad examples on applications can be captured and communicated effectively to policymakers. Such examples may fall through the gaps of an overall performance matrix, but would be effective in providing government with a clearer understanding of what is happening on the ground.

27. Members also reiterated the points around speed versus quality of feedback on applications. It was noted that applicants would not welcome a faster response from a statutory consultee if it resulted in a negative or poorer quality outcome. What is wanted instead is higher quality advice and decision making within a reasonable timeframe.

## Funding statutory consultees

**Question 27** Do you agree with this approach?

28. Comments focused on the need for improvements to the overall service level applicants receive in return for the fee increase. Further comments included the need for transparency, given the variance in quality across local authorities, and the need for greater consistency. There was also discussion around linking funding to KPIs. Further key points raised by members included:

- Questions over how developer-paid application premiums would be apportioned, particularly where engagement is primarily with a statutory consultee rather than the local authority.
- Support for Ministerial meetings to consider developer experience with individual statutory consultees.
- A strong preference for any increased funding to be directed toward increasing staffing within statutory consultees, rather than capital IT or other options.

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

29. Members noted that more education for local authorities and statutory consultees on what does and does not need to be referred would be welcome. A further angle for any additional guidance would be clear guidance on what information is needed at different stages of a planning application, so there is less risk that authorities and statutory consultees are having to consider information that is not necessary at the particular planning stage – for example, what is needed at the outline application stage.

## Moratorium on new statutory consultees

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

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

30. The idea of having a high bar for new statutory consultees is strongly supported, and members commented that this should already have been the case.

31. Members also noted some of the trade-offs of an inflexible moratorium on new statutory consultees. If new areas of expertise are needed as our planning system evolves, there would be value in more agility to create a central body to offer that advice, as this would benefit applicants by providing clarity on particular planning challenges. However, what is important is that the advice is high quality and proportionate to the matter they are dealing with, which arguably has not been a feature of recent trends in terms of statutory consultees' role in the planning process.