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## **Reforms to the statutory consultee system**

### **Consultation from Ministry of Housing, Communities and Local Government**

**Response from the Open Spaces Society, January 2026**

#### **Question 1**

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

As the ministerial foreword notes ‘The role of statutory consultees in the planning system is an important one. When statutory consultees engage, and are engaged, effectively in the planning application process, they support good decision-making and high-quality development through the swift provision of expert advice and information on significant environmental, transport, safety, and heritage issues.’

Timing and onus for planning officers to discriminate on which consultations to serve notice

Too often, statutory consultees are not informed in time (with very little time to then respond within the 21 days), and the information needed to assess the application is buried in over-verbose and opaque developer submissions. There is no penalty when local authorities either fail appropriately to notify statutory consultees of salient applications, or bombard statutory consultees with inconsequential planning proposals. This particularly relates to settings of landscapes, where local authorities either notify every planning application they receive, or omit to forward notices of ones where landscape will be affected.

Submission arrangements

Further, the developers too often fail to submit clear statements under each section of the National Planning Policy Framework (NPPF)—a mandatory list of documentation following the headings of the NPPF would be beneficial. Thus, heritage considerations could be considered under a document with that title; and green infrastructure under a separate document. This may end up being repetitive but at least assists those reviewing the material a) to validate an application by simply checking that the submission contains all that is promised and covers the requirements of the NPPF,



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and b) directs those being consulted to the relevant documents instead of hunting through every item—the duty could be to review only specific items within the planning proposals and give advice. With digital input this should speed things further.

### Planning weight

This consultation fails to note that statutory consultees have a unique legal position because their involvement is required by law (ie a duty to respond), and decision-makers (including inspectors) must ‘have regard’ to their views. This gives their evidence and submissions enhanced weight and their expertise is considered a material consideration. In appeal decisions and inquiry reports, inspectors must address the consultee’s formal position. They cannot simply ignore it. By contrast, the inspector may address comments from members of the public or non-statutory organisations, but there is no legal obligation to give them structured weight. Without that distinction, inspectors and planning officers will be placed in an impossible position to weigh up different non-experts’ input against policy.

### **Question 2**

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

This review fails to give a full picture of the statutory consultee context and ignores other prescribed organisations in legislation. The situation is complex but the proposals are insufficiently justified.

In terms of statutory consultees – it is unclear why the following other organisations have been excluded from consideration by the current consultation without justification:

- the Canal and River Trust – in relation to waterways under Schedule 4(za) Development Management Procedure Order
- The Coal Authority
- The Control of Major Accident Hazards (COMAH) competent authority
- The Crown Estates Commissioners
- Mineral Safeguarding Authorities
- Water and Sewerage Undertakers
- Other amenity societies

This non-systematic review is unhelpful in that it doesn’t look at the overall consultation process.

When it comes to prescribed organisations the Rights of Way Review Committee Practice Guidance Notes list ‘prescribed organisations’ to be consulted for Highways Act orders, Wildlife & Countryside Act orders—the prescribed organisations are specified in regulations—see SI 1993/9, SI 1993/10, SI 1993/11 and SI 1993/12 and include TCPA orders. These ‘prescribed organisations’ are not necessarily ‘statutory consultees’ in the planning-application sense, but they are statutorily required to be notified / consulted when a rights-of-way order is being made. Rights of way and other access land designations are important considerations in managing land and are too often overlooked. There should be a consistent approach between how prescribed organisations and statutory consultees are treated.

From the Open Spaces Society’s perspective there is no obligation to consult the society on planning applications which affect rights of way, although they are supposed

to be advertised ([art.15\(2\)\(c\)](#)<sup>1</sup> of [SI 2015/595](#) in England). However, this provision does not work effectively, in that notice given under art.15(2)(b) does not need to make clear that a right of way is affected, and those who see the notice may not understand why they are seeing it. This can mean that the first that we, or particularly our local correspondent (volunteer), learn of a proposed diversion of the right of way is when an order is proposed for that purpose, even though the order is inevitable given a planning consent for the affected site.

Piecemeal consideration of reform of the purpose of statutory consultee roles will not provide a clear and simplified framework which can be easily applied, nor will it avoid future legal challenges. Indeed, the proposals as currently presented could be counterproductive.

### **Question 3**

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

Oppose.

The removal of Sport England as a consultee on planning applications will affect recreation grounds and parks. Given that Sport England is objecting in 30% of cases on which it is consulted, we cannot see a case for removing it from the consultation system, other than a reprehensible aspiration on the part of Government that bad proposals affecting recreational open space are more likely to be approved. We have been told that only 8% of consultations involve development on or adjacent to playing fields, but not what proportion affect development on or adjacent to other public open space.

### **Question 4**

**In relation to notification requirements, should substantial loss of an existing playing field be defined as:**

An alternative approach.

**Please explain your answer/reasoning if possible.**

All loss of playing field space should be avoided if we are to get an active future generation particularly in areas of deprivation. The government's Environmental Improvement Plan 2025 explicitly includes a commitment under its goals to ensure that everyone can access, enjoy and care for nature and green/blue spaces within a 15-minute walk of their home. This commitment is part of the planning framework that central departments reference in delivery strategies and cross-department coordination. Further the report states that as part of Commitment 91 the Government will 'Deliver Sport England's Every Move strategy, maximising the power that sport and physical activity have to help people spend time in nature and enable wider change on social and environmental issues through community engagement.'

We agree that if space must be lost, then there should be an offer of an equivalent and suitable level of exchange land but would clarify that this must be within 15 minutes' walk of the chosen site provided as part of mitigation on any development.

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<sup>1</sup> Erroneously stated as 15(2)b in online submission. The reference in this document is the correct paragraph.

Appointing a threshold such as proposed in this question will be adopted by local authorities and developers as a target: every recreation ground to lose (say) 20% of its area to development.

### **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?**

This consultation is taking place alongside a review of the NPPF—the latter should strengthen provision of playing fields and access to nature. The latest draft of the NPPF states at Chapter 16, Policy HC1 1 that:

‘To promote the creation of healthy and inclusive places, and the provision, retention and enhancement of appropriate community facilities and public service infrastructure, development plans should, at the most appropriate level:

(d) Set local standards for the provision of different types of outdoor recreational land, including for play, sport, informal recreation and allotments. In doing so they should draw upon relevant national standards and best practice, tailoring these as necessary to local circumstances and evidence<sup>58</sup>. Policies for play and informal recreation should aim to secure a connected network of high quality, inclusive and accessible opportunities as part of the wider network of green space provision, secured through both on-site provision in conjunction with land allocated for development and through other contributions and investment.’

The footnote (58) specifically refers to guidance by Sport England.

A fuller review of the exact offer of playing fields for all types of sport; and Multi-Use Games Areas (MUGA) should be undertaken before making a final decision to see what the equitability of spread is across different parts of the country. It seems peculiar that at the point when emphasis on planning for healthy communities is flagged, the Government should seek to diminish the input from Sport England as a statutory advisor with the expertise needed.

### **Question 6**

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

Oppose.

### **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?**

Parks and gardens play a vital role in providing access to nature for many (see earlier comments about access within 15-minutes walk particularly in urban areas). For most people their nearest green space is their local park. This is where they can relax and enjoy an open landscape and have access to nature. The proposals will mean that significant numbers of local unregistered (on the National Heritage List of England) or Grade 2 (some 1,700) parks and gardens are left completely unprotected. Even when considering the Grade 1 and 2\* landscapes (which will fall to Historic England) there will be a necessity to consider resources. Further restricting notifications to

developments on or adjacent to listed parks fails to recognise that part of the benefit of parks is the sense of open space and blue sky, nor does it sufficiently take into account the landscape designers' intent when planning specific views within the parkland.

The Gardens Trust operates a network of local garden trusts across England and Wales and many of these volunteers are highly-informed, providing expert knowledge of the landscapes in their area. The Gardens Trust is a master in its field. Local planning authorities have neither the capacity nor the expertise adequately to research and address the issues raised by a deep and thorough understanding of designed and historic landscapes and their settings. There can be no advantage in removing expert advice from the system (see comments earlier about planning weight in response to question 1).

The Gardens Trust has long lacked resource. Even on the government's own assessment the Trust has only objected to 96 applications in the last year which is a tiny proportion of the overall number of applications considered by local authorities across England and Wales. [On crude analysis of planning data for the year to March 2025](#) where permission was given to some 235,000 new homes across all 29,300 residential developments, should the Gardens Trust's advice have been upheld in every instance, this would represent a block on some 760-780 new homes. The evidence therefore that the Gardens Trust is a blocker on pro-growth policies is absent and its removal will have a trivial impact in bureaucratic terms, but a severe impact in relation to designated sites.

There has also been a false equivalence between protection afforded to historic landscapes and listed buildings. Listed buildings enjoy statutory protection under the Planning (Listed Buildings and Conservation Areas) Act 1990. Listing creates a direct legal control over works affecting the building. Unauthorised works constitute a criminal offence. For historic landscapes, protection is typically non-statutory, except where landscape features themselves are listed structures or scheduled monuments. The principal designation is the Register of Parks and Gardens of Special Historic Interest in England. Registration does not itself prohibit development. Listed buildings have the strongest and most legally defensible protection of setting, anchored in statute and reinforced by case law. World Heritage Sites enjoy very high policy protection, particularly for setting related to Outstanding Universal Value, but lack a direct statutory hook, making outcomes more dependent on planning judgment and local policy quality. Historic landscapes, including those on the National Register of Historic Parks and Gardens, have the weakest protection for setting, relying on non-statutory designation and variable policy application, leaving them more exposed to cumulative and incremental harm. The proposed mitigations are inadequate.

## **Theatres Trust**

### **Question 8**

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

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?**

No comment.

**Question 10**

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

See response to Question 2.

**Question 11**

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

Neutral.

**Question 12**

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

No comment.

**Question 13**

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

Neutral.

**Question 14**

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

No comment.

**Question 15**

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

No comment.

**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 comment.

**Question 17**

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

No comment.

**Question 18**

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

No comment.

**Question 19**

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

No comment

**Question 20**

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

No comment.

**Question 21**

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

No comment.

**Question 22**

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

No comment.

**Question 23**

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

No comment.

**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 comment.

**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?**

No comment.

**Question 26**

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

No comment.

**Question 27**

**Do you agree with this approach?**

See response to question 2—we agree that clearer referrals specifically made against criteria for consultation would be beneficial.

**Question 28**

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

If these proposals go through, there should be a requirement for a minimum level of staffing expertise fully to advise internally on the merits of playing fields, historic green spaces and landscape impacts. Numerous local authorities lack conservation officers and other staff who can advise on public rights of access over land.

**Question 29**

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

No comment.

**Question 30**

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

See response to question 1.

**Question 31**

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

No comment.

**Question 32**

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

See responses to questions 1 and 2.

**Question 33**

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

See responses to questions 1 and 2.

**Question 34**

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

No Comment.

**Question 35**

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

We do not know but suggest that there are significant risks to landscapes in urban deprived areas being more vulnerable to incremental loss, further increasing health inequalities.

**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?**

No.

**Question 37**

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

Neutral.

The focus appears to be on centralising decision making and creating a pro-growth environment. Statutory consultees may improve their performance in that they simply won't be consulted on numerous applications, but that does not mean the planning system will be improved. As noted earlier, a lack of expertise is likely to lead to a worse outcome and potentially additional legal challenges (which only those in less-deprived areas can afford to mount).