

## Local Development Order to permit installation of package treatment plants

### 1 Summary

- 1.1 Approval is sought to proceed with a Local Development Order for public consultation permitting the replacement of septic tanks with package treatment plants without the need to make a planning application. Members saw this item at away hour in April 2025 to gain an understanding of the need and scope of a Local Development Order. Feedback on issues of noise was given, and this is covered in paragraph 5.3.

<b>Recommendation that a you:</b>	<b>Approve the Local Development Order (Annex 1) for public consultation.</b>
	<b>b Delegate authority to the Director of Sustainable Development to make any amendments resulting from this meeting</b>
	<b>c Delegate adoption of the Local Development Order (Annex 1) to the Director of Sustainable Development in consultation with the Chair of Park, Strategy &amp; Vision Committee if there are no substantive comments raising concerns resulting from the public consultation exercise.</b>

### 2 Background

- 2.1 An increase in nutrients, most commonly nitrogen or phosphorus, can significantly affect water quality and habitats. Natural England has identified areas where nitrification could be particularly harmful because they form the catchment of a protected Habitats Site of international importance, already in an unfavourable condition.
- 2.2 In March 2022, Natural England issued advice that certain new developments, in such catchments, will need to mitigate against any increase in nutrient pollution that they cause. Four catchments within Cumbria have been identified, all due to excess phosphorus. The affected catchments are:
- River Derwent and Bassenthwaite Lake Special Area of Conservation
  - River Eden Special Area of Conservation
  - River Kent Special Area of Conservation
  - Esthwaite Water RAMSAR
- All four fall wholly, or partly, within the National Park.
- 2.3 Developments within the identified catchment areas may only be permitted where they can demonstrate that they will not result in a net increase in phosphorus within the affected catchments i.e. that they are nutrient neutral at worst.
- 2.4 The impact of the advice has been that a number of proposed housing schemes cannot be approved, even if they were otherwise acceptable, as they are unable to demonstrate nutrient neutrality. This has had an impact in housing development within the National Park, but the biggest impact numerically has

been in settlements such as Carlisle and Penrith where large scale housing schemes have stalled. In order to address this matter, the local planning authorities in Cumbria have formed a partnership to explore ways of reducing and mitigating phosphorus inputs into catchments. The partnership has been provided with government funding to develop mitigation schemes. Any phosphorus savings generated can be used as credits to free up housing development elsewhere in the catchment.

- 2.5 There are various means to achieve reductions in phosphorus – for example through the planting of trees, land use change or creation of wetlands – but one tried and tested method is to replace existing ageing septic tanks with modern package treatment plants which discharge lower levels of phosphorus. The partnership intends to fund replacement tanks and sell the credits generated to housebuilders. Contractors have been appointed to carry out the work.
- 2.6 A potential obstacle to this approach is the need to apply for and receive planning permission for the installation of replacement plant. Applicants are required to provide plans and other information as part of a planning application and to pay a fee. Typically, applications take six to eight weeks to determine. We want to make the process of replacing tanks to be as seamless as possible given the environmental benefits of upgrading.
- 2.7 Members will be familiar with the concept of permitted development rights which allow certain developments to be carried out, for example householders to make alterations to their house, without the need to apply for planning permission. These rights stem from the Town and Country Planning (General Permitted Development) (England) Order 2015, often abbreviated as the GPDO. The GPDO grants a general planning permission for specified categories of development subject to certain limitations and conditions. Section 61A of the Town & Country Planning Act 1990 allows local planning authorities to create Local Development Orders (LDOs) which perform a similar function at a local level.
- 2.8 This matter was previously presented to the April meeting Away Hour.

<b>Previous Committee</b>	<b>Main Points discussed</b>
Park Strategy & Vision Committee 23 April 2025 - Away Hour	Members were generally supportive in principle but wanted further exploration of how third party amenity could be safeguarded

### **3 Policy Context**

- 3.1 Improving the condition of internationally important nature conservation sites helps to realise one of the Lake District National Park Partnership’s Vision Outcomes of Contributing to a Spectacular Landscape, Wildlife and Cultural Heritage. “A landscape... whose benefits to people and wildlife are valued and improved” and whose “natural and cultural resources are assets to be managed and used wisely”
- 3.2 Outcome 3: Securing the future of farming and forestry, nature recovery and climate change of the Lake District Nation Park Partnership’s Management Plan 2020-2025 seeks to deliver the ambition and vision of the nature recovery priorities identified in the Local Nature Recovery Strategy. Two key outcomes to

measure success are 1) that 75% of water bodies would be at or above Water Framework Directive Good Ecological Status by 2027 and 2) 100% of SSSIs should be in recovering condition by 2020 and 90% in favourable condition by 2040.

- 3.3 With respect to the Lake District National Park Local Plan 2020-2035, Policy 04 seeks to protect our important habitats, sites and species

## **4 Options**

- 4.1 Members are presented with the following options.

- a) Do not proceed with a Local Development Order.
- b) Approve the Local Development Order in the form set out at Annex 1 for public consultation and if no substantive comments raising concerns delegate the Adoption of the Local Development Order to the Director of Sustainable Development in consultation with the Chair of Park, Strategy, and Vision Committee.
- c) Amend the Local Development Order with more onerous conditions for public consultation.

- 4.2 The various options are assessed in the following section.

## **5 Proposal**

- 5.1 I propose that members select option b) in paragraph 4.1 above and approve the LDO for public consultation based on the assessment below. It would allow homeowners to replace old or polluting tanks with package treatment plants without the need to make a planning application. Treatment plants are predominantly underground so there is little landscape impact and new plants will continue to need to abide by general binding rules or, if they don't, require a permit from the Environment Agency, so there are other safeguards against tanks being installed in such a way that would result in environmental pollution. Those treatment plants which don't meet the terms of the order would have to apply for planning permission in the normal way. Although the principal motivation for the LDO is to aid protection of European sites, it is proposed that the permitted development rights are not confined to those catchments, as the benefits of a reduction in pollution apply throughout the National Park.
- 5.2 Option a) would retain the status quo where planning permission should be sought for the installation of a package treatment plant. Members should choose this option if they are concerned that the risks of granting a blanket planning permission outweigh the benefits. Given the record of around 100 applications for new or replacement tanks having been made and none refused over the last five years, and that it will remain a requirement for installers to abide by general binding rules or seek a permit from the Environment Agency, the risks of new tanks causing significant harm to amenity, or causing unacceptable pollution are considered slight, subject to the restrictions in the draft order.

- 5.3 Option c) represents a halfway house between Options a) and b), proceeding with the LDO but increasing the number of matters which would exclude development from benefiting. Some of the matters which have been considered are:
- I. Require all tanks to not exceed a maximum noise level
  - II. Require all tanks to be sited a minimum distance from non-related residential accommodation.
  - III. Require that persons who wish to install a tank must first seek prior approval of the local planning authority through a notification procedure (and perhaps require the submission of noise specification information as part of the procedure).
- 5.4 Officers have considered all of the above and none are without difficulty. Taking each in turn:
- I) manufacturers do not routinely provide noise level information for their product so it will be difficult for householders to know whether they would be able to comply with this requirement. In addition, it may not matter if a plant is noisy if there are no nearby neighbours, but a less noisy plant may be problematic if there are near neighbours. Finally, the evidence suggests that the same plant might have different noise outputs depending on how it is installed and maintained.
- II) The concept would be relatively easy to introduce into the LDO, but what would be an appropriate distance is more difficult to establish. The greater the distance specified, the larger the number of potential upgrades which would be ruled out from benefitting from the Order.
- III) This would effectively replace the need to apply for planning permission with a very similar procedure. It would not have the formal consultation requirements that a planning application has so could potentially be processed quicker but would still be an obstacle. Officers would still have to determine applications, but the Authority would no longer receive a planning fee.
- 5.5 Taking all the above into account, it is recommended that members resolve to adopt Option b). The creation of an LDO necessarily leads to a partial giving up of control on behalf of the local planning authority, and it is possible that on certain limited occasions this will result in amenity issues. However, given the record of approvals and absence of compliance complaints on this subject, the small possibility of harm is outweighed by the benefits of reduced pollution of our catchments. Furthermore, if unforeseen problems emerge, they can be addressed, as adopted LDOs may be reviewed, modified or revoked at any time.

## **6 Stakeholder Consultation**

- 6.1 Informal discussions have taken place with members of the Environmental Health team at Westmorland and Furness Council, however in order to adopt the LDO it first has to go through a formal consultation process which involves a general invite for comments and specific consultation with named parties.

- 6.2 We are required to make copies of the draft LDO, statement of reasons and other supplementary information available on the Planning Register. The documents must also be published on our website and our intention to make the order published in a local newspaper. The regulations require that we should publicise the order in the same way as a planning application is but, given that the order covers the whole of the National Park, that would be an impossible task. Where LDOs have been adopted covering wide areas elsewhere in the country, the publication of the proposed notice in local newspapers, and a publicity campaign directing persons to our website is deemed sufficient to satisfy that requirement.
- 6.3 When a decision to adopt has been made, a copy of the LDO, the statement of reason relating to the making of that order and Environmental Statement (if applicable) should be sent to the Secretary of State as soon as reasonably practicable, and no later than 28 days after the adoption of the LDO.
- 6.4 We also need to consult persons whose interests the authority consider would be affected by the order if made. In this case this would be the following:
- (a) Cumberland Council, Westmorland and Furness Council and all parish/ town councils within the National Park.
  - (b) Natural England;
  - (c) the Environment Agency;
  - (d) Historic England

## **7 Demonstrating Best Value**

- 7.1 The Best Value implications are:
- Challenge – we are challenging ourselves to review and streamline our planning processes to identify solutions to support Nutrient Neutrality North West.
  - Compare – we have compared our approach to other Authorities that have Nutrient Neutrality affected catchments.
  - Consult – This report asks for approval to undertake public consultation to ensure the LDO is appropriate and practicable.
  - Compete – not relevant.

## **8 Finance Considerations**

- 8.1 On the one hand there is a one-off cost to the authority in officer time preparing the LDO and in consulting and publicising the draft LDO. There would also be a loss of planning application fees when replacement tanks no longer need to make an application. On the other hand, it is doubtful whether the fees for an individual application for a package treatment plant cover the costs to the authority of publicising, consulting and determining it. The reduction of applications will enable officers to devote more time to other applications. Overall, it is considered that the costs to the Authority would be neutral at worst.

## **9 Risk**

- 9.1 The risk to the authority is negligible. There will be a thorough consultation process prior to adoption and any issues that do arise as a result of an adopted order can be addressed through modification or revocation of the LDO.

## **10 Legal Considerations**

- 10.1 Section 61A of the Town & Country Planning Act 1990 allows local planning authorities to create Local Development Orders (LDOs). The process of doing so is set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015.

## **11 Human Resources**

- 11.1 No staffing implications

## **12 Diversity Implications**

- 12.1 No diversity implications

## **13 Sustainability**

- 13.1 The replacement of polluting septic tanks with less polluting package treatment plants should have a positive impact on the environment, particularly in catchments which have excess levels of phosphorus at present.

Background Papers

Author/Post

Responsible Director

Date Written

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Steve Ratcliffe, Director of Sustainable Development

11 July 2025

## **Annex 1:**

### **Draft Local Development Order – Upgrading Septic Tanks and Sewage Treatment Plants**

#### **Statement of Reasons for Local Development Order**

1.1 It is proposed to adopt a Local Development Order (LDO) which grants planning permission for the installation of sewage treatment plants. The following sets out the reasons why an LDO should be adopted.

1.2 An increase in nutrients, particularly nitrogen or phosphorous, can significantly affect water quality and habitats. Natural England has identified areas where this could be particularly harmful because the catchment is a protected Habitats Site of international importance and is already in an unfavourable condition.

1.3 In March 2022, Natural England issued advice that certain new developments, in such catchments, will need to mitigate against any increase in nutrient pollution that they cause. Four catchments within Cumbria have been identified, all as a result of excess phosphorus. The affected catchments are listed below:

- River Derwent and Bassenthwaite Lake Special Area of Conservation
- River Eden Special Area of Conservation
- River Kent Special Area of Conservation
- Esthwaite Water RAMSAR

All four fall wholly or partly within the National Park.

1.4 Developments within the identified areas will therefore only be permitted where they can demonstrate that they are nutrient neutral and will not result in a net increase in nutrients within the affected catchments.

1.5 The impact of the advice is that a significant number of proposed housing schemes have been unable to be approved, as they are unable to demonstrate nutrient neutrality. This has had an impact in housing development within the National Park, but the biggest impact has been felt outside the National Park in settlements such as Carlisle and Penrith

1.6 There are various means to achieve reductions in phosphorus, but one way is to replace existing ageing septic tanks with package treatment plants which discharge much lower levels of phosphorus. The phosphorus saved can be used as credits to free up stalled housing sites.

1.7 An obstacle to this approach is the need to apply for and receive planning permission for the installation of tanks. Applicants are required to provide plans and other information as part of a planning application and to pay a fee. It is considered that this might prove a deterrent to those wishing to upgrade.

1.8 The principal motivation for the LDO is to make it more straightforward to replace existing septic tanks with more modern and less polluting equipment. This is particularly important in catchment areas of important European protected sites but the benefits of a reduction in pollution apply throughout the National Park, so it is intended that the LDO would extend to the whole of the National Park.

1.9 In recommending the creation of an LDO we have taken into account that nearly 100 applications have been submitted for new or replacement tanks since 2020, and none of these applications have been refused. This is unsurprising for a number of reasons. Firstly, most applications were for the replacement of existing septic tanks which were coming to the end of their working life. Secondly, as treatment plants are predominantly underground there is little landscape impact. Finally, new plants require a permit from the Environment Agency or abide by general binding rules. Consequently, there are safeguards against tanks being installed in such a way that would result in environmental pollution. These safeguards would be unaffected by the LDO. In short replacement treatment plants rarely cause problems which would warrant the refusal of planning permission, and it is intended that the various limitations and conditions which form part of the LDO would exclude from the scope of the LDO permission those rare occasions when more detailed consideration is required. Those treatment plants which don't meet the terms of the order would have to apply for planning permission in the normal way.

## **Introduction**

2.1 The Local Development Order (LDO) grants planning permission for the replacement of septic tanks and small sewage treatment plants with more efficient small sewage treatment plants.

2.2 Works are only covered by the LDO when the constraints do not apply, and the conditions are complied with. These are set out below.

2.3 The motivation of the LDO is to make it more straightforward to replace existing septic tanks or small sewage treatment plants with more modern and therefore less polluting equipment.

2.4 The LDO grants planning permission, which is one stage of the approval process. It does not remove any of the requirements set by the Environmental Permitting (England and Wales) Regulations 2016, the General Binding Rules 2023, nor Building Regulations 2010.

## Description of development

- a) The replacement of a septic tank or sewage treatment plant, serving up to three dwellings, with a new sewage treatment plant, including the installation of associated pipes, cables, vents, ducts, manholes or kiosks, and any ancillary engineering operations.
- b) The installation of additional equipment, designed to reduce phosphorus discharge, to an existing sewage treatment plant.

## Development not permitted if:

- a) The discharge of the newly installed plant is to a different discharge point from that of the plant to be replaced.
- b) The new plant's treatment efficiency for Total Phosphorus removal is less than 5 mg/l
- c) The new plant requires chemical dosing
- d) The boundary of the premises that the system serves is within 30 metres of a public foul sewer.
- e) Any part of the development is in a European protected site, and/or a site of special scientific interest (SSSI)
- f) Any part of the development is within:
  - i. the curtilage of a listed building; or
  - ii. a Registered Park and Garden; or
  - iii. a Scheduled monument; or
  - iv. a Registered battlefield site.
- g) Any part of the development would be within 20m of a main river
- h) Any part of the development would be within flood zone 2, 3 or 3b or requires a flood risk assessment in line with the requirements of the National Planning Policy Framework

## Conditions

The following conditions apply to all sewage treatment plants permitted under this LDO:

- a) The sewage treatment plant and drainage field shall be installed, maintained and operated without chemical dosing in accordance with the submitted specification and details hereby approved.
- b) Any land affected by the works must be reinstated to its previous condition, as far as reasonably possible, unless written confirmation to the contrary is provided by the Local Planning Authority.
- c) An installation of a sewage treatment plant needs to meet the requirements of the General Binding Rules or, if an environmental permit is required, ensure it is in line with any approved permit.
- d) Within 42 days of the completion of the development, the developer or landowner shall notify the Head of Development Management of the local planning authority of the installation with the following details:

- i. A plan to a recognised metric scale showing the location of the sewage treatment plant in relation to the site boundaries. The plan must show the location of the discharge point or drainage field
- ii. The model of the small sewage treatment plant installed
- iii. The British Water, or equivalent, accreditation certificate for the system

## **Informatives**

The following informatives apply to all proposals permitted under the LDO:

1. The planning permission under this Order is subject to the conditions above. If the conditions are not complied with then the proposal is not permitted under the LDO and any approval given would be null and void. A full planning application would then be required to regularise the development.
2. Non-Mains Drainage: Consent under the Building Regulations is likely to be required in most cases. Primary responsibility for ensuring sewage systems for new developments are adequate lies with the Building Control Department of the relevant council
3. Other environmental permissions may be required.

## **Definitions:**

- a) European protected site – means a site listed under the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012) (see regulation 8) and a Ramsar Site, meaning given at Section 37A of the Wildlife and Countryside Act 1981
- b) Site of Special Scientific Interest - has the meaning given at Section 52 of the Wildlife and Countryside Act 1981
- c) General Binding Rules means – the standard rules published by the Environment Agency pursuant to the Environmental Permitting Regulations 2016
- d) A sewage treatment plant (also known as a ‘package treatment plant’) – means a system that treats the liquid so it is clean enough to go into the ground or a surface water
- e) Notification to the LPA shall be provided via an electronic or physical letter, sent to **planning@lakedistrict.gov.uk** , or Head of Development Management, Lake District National Park Authority, Wayfaring House, Murley Moss, Oxenholme Road, Kendal LA9 7RL
- f) Chemical dosing – means the use of chemicals such as a combination of ferric chloride, ferric sulphates, aluminium and a range of metallic salts to remove and capture phosphorus during treatment before the water is released back into the environment.