

13 December 2021

PR 23-21 ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2016

The National Association of Local Councils (NALC) is the nationally recognised membership and support organisation representing the interests of around 10,000 parish and town councils and many parish meetings in England, 70% of which are situated in rural areas. Local (parish and town) councils are the backbone of our democracy and closest to local people, providing our neighbourhoods, villages, towns and small cities with a democratic voice and structure for action, contributing in excess of £2 billion of community investment to supporting and improving local communities and delivering neighbourhood level services.

Context

- DEFRA would have been better advised to work more closely with partners when framing a consultation such as this one and should have reached out much earlier in the process to local government and burial authorities to ensure they were fully au fait with the potential implications. By accident or design if implemented these regulatory changes appear to be being made almost by stealth, in spite of the ramifications for local council burial authorities, residents and their families. This consultation will also affect churches and churchyards of many different denominations – the Church of England seemed to be unaware of it and the implications for its own churchyards when NALC approached them in November 2021.
- We understand that the Institute of Cemetery and Crematorium Management (ICCM) will be making its own response to this consultation highlighting the same concerns as those raised by our members. The ICCM works not only with local councils, but also with principal councils whose bereavement service officers have the financial resources and technical support to operate often multiple cemeteries within their area. In contrast, the majority of local council clerks manage one cemetery, whether in a market town or a small rural parish.
- NALC has engaged with sector stakeholders such as the Society of Local Council Clerks (SLCC) during the framing of this response and we share the SLCC's substantive concerns regarding the burials aspects of these proposals. For instance the impact of increasing the grave plot area to a minimum of 5m² compared with the traditional plot size of 3-3.5m² thus

reducing the stock of new graves in smaller local council cemeteries many of which are running out of space and have no room to extend. There is also the issue of burials in standing water in graves due to fluctuating changes in water table levels. Where this occurs, it can be mitigated by pumping water from new graves (non-grey water) or limiting coffin burials to single rather than double/triple depth in areas of the cemetery where this a “permanent” problem.

- Insisting, as DEFRA suggests, on requiring a minimum one metre clearance between the base of the grave and top of the water table in all cemeteries irrespective of size or annual number of body burials would further decrease the number of double depth graves in many local council cemeteries thereby increasing costs for married couples/partners having to be buried side by side in two separate graves whilst further depleting new grave stocks.
- There is an urgent need for DEFRA to produce and hold a national register/data base of all local authority cemeteries in England (and Wales) available free of charge to approved stakeholders/partners.
- Whilst we understand that the government’s stated objective with this consultation is to update the Environmental Permitting Regulations to improve the way in which groundwater activities, and some related surface water discharge activities, are regulated – we think that DEFRA should engage in a major re-think about amending regulations pertaining to the proposal to make General Binding Rules available for small-scale cemetery developments in low-environmental risk settings and the draft exemption conditions. The reason for this is that if the current proposals are implemented it could reduce the remaining burial capacity of cemeteries and burial grounds by almost 50%.
- The DEFRA proposal that to qualify as an ‘exempt facility’ a cemetery will have to comply with the General Binding Rules (GBRs), one of which is that the minimum size of a grave plot will be no smaller than 5 square metres – is completely unworkable and is the reason we are hearing why many local council cemeteries will lose up to half their cemetery space or in some cases have to close.
- Our view overall is that the proposals to restrict the installation of ground source heat pumps within certain distances of watercourses, springs, and

protected nature sites may impede the drive towards 'green energy', including community-based solutions.

- DEFRA should do all in its power to ensure maximum possible ongoing burial capacity for cemeteries and burial grounds managed by local councils – whilst still improving the way that ground water activities, where absolutely essential, are regulated, and without compromising the excellent work of many local council burial authorities using green-friendly initiatives in their cemeteries.
- We are completely against making General Binding Rules (GBRs) available for small-scale cemetery developments in low-environmental risk settings and the draft exemption conditions as provided. This is because as most of our local councils told us, we are also not in favour of many of the proposed exemption conditions, relating to question 3b.
- Overall we are not opposed to the principle of a reduction in Small Sewage Discharge in a given area where appropriate, but again think that local councils should not be completely disincentivised from using green energy tools such as ground source heat pumps in spaces they manage or own.

NALC's responses to the consultation proposals with most relevance to local councils are below:

Q3a: To what extent do you agree with the proposal to make General Binding Rules available for small-scale cemetery developments in low-environmental risk settings? If this question is not applicable to you, please select N/A.

- a. Strongly agree**
- b. Agree**
- c. Neither agree nor disagree**
- d. Disagree**
- e. Strongly disagree**
- f. N/A**

Strongly disagree.

Please provide details to explain your answer.

We strongly disagree with the proposal to apply GBRs to small-scale cemetery developments in low-risk environmental settings. The criteria for exemption are too difficult to achieve due to physical or financial restrictions for most local councils.

Q3b: To what extent do you agree that the draft exemption conditions for small-scale cemetery developments in low-environmental risk settings in Annex B are appropriate?

- a. Strongly agree**
- b. Agree**
- c. Neither agree nor disagree**
- d. Disagree**
- e. Strongly disagree**

Strongly disagree.

Please provide details to explain your answer.

We completely disagree with DEFRA's proposed draft exemption conditions for small-scale cemetery developments in low environmental risk settings. Specifically we disagree with the reference "*A grave plot must not be less than 5m² in area.*" Currently, most councils report a burial plot size of 3-3.5m². As such, the new minimum size of burial area would dramatically decrease the burial capacity of their small-scale cemeteries.

Additionally, many local council cemeteries lay within the proposed 10m distance of field drains and to comply with the new conditions, they would lose large swathes of available burial space.

We also disagree strongly with the following requirement: "*A grave must have at least 1 metre clearance between the base of the grave and the top of the water table and must not have any standing water in it when dug.*" In certain locations, ensuring this clearance is not possible due to the unpredictable variability or consistently high-water table.

This proposal would have a huge impact on many local council cemeteries. It would mean that local councils would run out of space sooner than currently calculated. This proposal would also question the viability of purchasing new cemetery ground with fewer burial plots per hectare. Local councils would also need to increase burial charges to cover the grounds maintenance which many of them try to keep to a minimum for local residents.

Local councils have real concerns about the future of their small-scale cemeteries if these GBRs are introduced. There would be increased costs to communities in order to buy new land and digitally map extensions to ensure burial conditions are met. Moreover, costs passed on to burial authorities could be passed on to

bereaved families, who may have to choose cremation as a cheaper option. As such, NALC believes that DEFRA has not provided adequate justification for these exemption conditions, particularly condition 8 (increase in burial plot size). **NALC urges DEFRA to consider how these exemption conditions will have a detrimental effect on the burial practices of local councils and the increased cost that would be passed onto communities in local council areas.**

Q3c: To what extent do you agree with the proposal to make General Binding Rules available for closed loop ground source heat pump activities in low-environmental risk settings?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Neither agree nor disagree

Please provide details to explain your answer.

We think that local councils should not be completely disincentivised from using green energy tools such as ground source heat pumps in green spaces they own or manage. However we know both that one argument for GBRs being made available for closed loop ground source heat pump activities in low-environmental risk settings, is the cost and administrative burden on local councils applying for permits. However, these GBRs should not be too restrictive as they may impede the movement towards use of green energy in local communities.

Q3d: To what extent do you agree that the draft exemption conditions for closed loop ground source heat pump activities in low-environmental risk settings in Annex C are appropriate?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Disagree.

Please provide details to explain your answer.

We object objects to conditions 3, 4, 5 and 7, which restrict the installation of such closed loop heat pumps within certain distances of wells, SSSIs, Ramsar sites, watercourses or septic tanks. These exemptions are not appropriate as they would hinder local councils considering renewable sources of energy for their community practices.

Q3e: To what extent do you agree that the draft exemption conditions for closed loop ground source heat pump activities in low-environmental risk settings in Annex C should apply to all sizes of such activities?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Neither agree nor disagree.

Please provide details to explain your answer.

Local councils should not be completely disincentivised from using green energy tools such as ground source heat pumps in spaces they own or manage.

Q3f: If you think that the draft exemption conditions for closed-loop ground source heat pump activities in low-environmental risk settings in Annex C should include a size threshold (energy in kWh per year), what size limit do you think is reasonable?

We have no specific size limit to offer as local council burial authorities did not provide specific feedback to us.

Q6: To what extent do you agree with the proposal to add these new rules to the General Binding Rules for Small Sewage Discharges to ensure that multiple discharges should not be located in close proximity to each other?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Neither agree nor disagree

Please provide details to explain your answer.

Whilst we are not opposed to the principle of a reduction in Small Sewage Discharge in a given area where appropriate, we again think that local councils should not be completely disincentivised from using green energy tools such as ground source heat pumps in spaces they own or manage.

More information is needed relating to Small Sewage Discharges, furthermore, there should be more restrictions on the large-scale sewage discharges made by large water companies.

Should you require any further information on this response please do not hesitate to contact Chris Borg, policy manager, on 07714 771049 or via email at chris.borg@nalc.gov.uk.