

# The Noise Policy Statement for England

## Significance, application and implications

### Introduction

*'Official policy statements from Whitehall tend to be bland and full of sincere-sounding generalities, but just now and then something important, perhaps even revolutionary, can be glimpsed in their pages. So it is with the latest paper from Defra, The Noise Policy Statement for England....Indeed it should influence many of the most significant proposed changes to our national life over the next decade.'* The Independent, 17 March 2010

The Noise Policy Statement for England, published by Defra in March 2010, describes a 'policy vision to facilitate decisions regarding what is an acceptable noise burden to place on society'. The publication of the NPSE coincided with the formal adoption and publication of the Noise Action Plans as required by the Environmental Noise (England) Regulations 2006<sup>1</sup> (as amended) and the Environmental Noise Directive<sup>2</sup>. However, the potential implications of the NPSE go much wider, and as this article shows, it may well turn out to have a considerable impact on the work of many members of the Institute of Acoustics.

### Description of the Statement

Contrary to the original intention it is not a long, top-down document. Rather it is a short, tiered document consisting of:

- a succinct '*Noise Policy Vision: Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development*';
- six brief paragraphs of text;
- a statement of three aims;
- five guiding principles for sustainable development;
- four pages of explanatory notes.

### Separation of policy and technical advice

The NPSE separates policy from technical advice, which in principle allows more rapid changes to how noise is managed as knowledge about impacts develops, without the need to go back and review policy. However, the lack of a technical appendix could be a cause for concern, as application of the policy could become piecemeal if different decision making bodies choose different targets or interpret existing guidance differently.

### Scope and applicability of the Statement

Any organisation that has a responsibility for managing noise is responsible for implementing the NPSE. Deceptively simple, it applies to all noise not simply ambient noise, with only workplaces excluded. The long term vision is supported by the following aims:

- avoid significant adverse impacts from noise;
- mitigate and minimise its lesser but still adverse impacts;
- contribute to the improvement of health and quality of life through the effective management of noise, for example through the promotion of quiet areas.

Arguably these are not specific commitments, but the document goes on to provide useful advice on interpretation of its aims, including the need to integrate consideration of the economic and social benefit of the activity or policy under examination with proper consideration of the adverse environmental effects. This means, for example, that the NPSE should be a consideration for industry regulated under an Environmental Permit administered by the Environment Agency. However, what is not yet clear is what the implementation would mean in practice if, for example, all Local Authorities were to review their noise and planning and sustainable community policies to ensure that they help to deliver the vision and aims of the NPSE.

## **NPSE and the Government's policy on sustainable development**

There is repeated reference throughout the NPSE to 'within the context of Government policy on sustainable development' and these terms are included in both the Noise Policy Vision and the Noise Policy Aims. The guiding principles of Government policy on sustainable development<sup>3</sup> should be used to assist in its implementation. Central Government provides policy guidance on delivering sustainable development in Planning Policy Statement 1 (PPS1)<sup>4</sup>. In that document, the Government sets out four aims for sustainable development:

- social progress which recognises the needs of everyone;
- effective protection of the environment;
- the prudent use of natural resources;
- the maintenance of high and stable levels of economic growth and employment.

PPS1 goes on to advise that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by:

- making suitable land available for development in line with economic, social and environmental objectives to improve people's quality of life;
- contributing to sustainable economic development;
- protecting and enhancing the natural and historic environment, the quality and character of the countryside, and existing communities;
- ensuring high quality development through good and inclusive design, and the efficient use of resources;
- ensuring that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community.

The NPSE provides a description of desired outcome from the noise management of a particular situation. It refers to the five guiding principles of sustainable development but the NPSE itself does not help clarify the conflict that is often faced between, for example, accepting that a particular development will have some negative impact on the noise climate of some individuals, although that impact is acceptable for the wider benefit to society.

## **Definition of levels having adverse effects on health and quality of life**

The definition of statutory noise nuisance includes the phrase 'noise ... so as to be prejudicial to health' and the Environmental Protection Act (EPA) 1990 defines prejudicial to health as being 'injurious, or likely to cause injury, to health'. The NPSE utilises two established concepts from toxicology that are currently being applied to noise impacts, for example, by the World Health Organisation. They are:

- NOEL – No Observed Effect Level. Below this level, there is no detectable effect on health and quality of life due to the noise.
- LOAEL – Lowest Observed Adverse Effect Level. This is the level above which adverse effects on health and quality of life can be detected.

The NPSE extends these to the concept of a

- SOAEL – Significant Observed Adverse Effect Level. This is the level above which significant adverse effects on health and quality of life occur.

However, the NPSE does not explore the possible interactions between the EPA definition of statutory nuisance, NOAEL, LOAEL and SOAEL. Long established case law means that there are no ‘fixed standards of comfort’ *ie* noise conditions that are applicable in all circumstances. Furthermore, the existence of a statutory nuisance is influenced by non-acoustic factors such as the nature and character of a location. This is one of the issues that will undoubtedly be debated at the forthcoming IOA Workshop being organised by the Environmental Noise Group at the University of Salford on May 24<sup>th</sup>, 2011.

## **Aims of the Statement and some surprising implications**

### **Adverse effects on health and quality of life**

The first aim of the NPSE states that significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development.

### **Minimise adverse effects on health and quality of life**

The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development. This is consistent with consideration of Best Available Techniques (BAT) or appropriate measures under Environmental Permitting regulations. Significantly, this would mean that any time noise levels could be above LOAEL there will need to be a demonstration of what noise mitigation has been considered, what will be adopted and a cost benefit demonstration as to why other measures are not being implemented.

For example a decision maker might decide that when it receives applications for noise generating development, they could adopt an approach based on the three aims of the NPSE, in reverse order, as follows:

1. Preferably the scheme should lead to a reduction in noise in noisy locations or no increase in noise in quiet areas.

However, the decision maker would have to also recognise that under the wider sustainability agenda it may not be possible or desirable to achieve a reduction in noise or no increase in noise in quiet areas in all cases, in which case:

2. The scheme should use all reasonably practicable measures to avoid increases in noise or minimise any increase in noise.

Where it is not reasonably practicable to achieve the preferred nil increase, or the ‘minimisation’ standard, then as a backstop to prevent significant adverse effects on health and quality of life, the decision maker could invoke a policy that:

3. The maximum noise level that would be acceptable under these circumstances is one that prevents significant adverse impacts.

This would apply to otherwise sustainable schemes that are valued for planning, environmental, social and economic reasons. If the minimum standard of avoiding significant adverse impacts cannot be achieved by mitigation incorporated into the scheme, the next option should be to offer mitigation at the receptor and compensation for loss of amenity, even if property values are unaffected.

### **Improve adverse effects on health and quality of life**

The third aim seeks, where possible, positively to improve health and quality of life through the proactive management of noise while also taking into account the guiding principles of sustainable development. The management and control of such noise impacts is achieved by avoiding (*ie* preventing from happening) any significant adverse impacts on health and quality of life, and minimising (*ie* reducing to the smallest possible) adverse impacts on health and quality of life.

It is not immediately apparent that older methods of demonstrating that noise level increases would have no unacceptable impact will not satisfy this requirement. This is because such methods will usually result in the opposite effect, which is continually raising ambient noise levels. This also means that an industrial installation would need to be able to demonstrate that an expansion project had actively considered methods and designs that reduced the noise effects of the existing installation, for example by the location of a new building and the possibility of using it as a noise barrier to a sensitive receptor, or making a building on the new project slightly larger to house some of the existing equipment to reduce impact on sensitive receptors.

This aim could also be used to counter or minimise ‘creeping’ background and ambient noise levels when assessing the impacts of planning applications for noise generating activities. Significant negative impacts due to incremental increases in noise levels may arise when the noise levels in a locality are borderline acceptable or are already unacceptable. Consequently, when considering applications for noise generating development, an authority may wish to apply the aims and objectives of the NPSE to prevent incremental increases leading to unacceptable overall noise levels in noise-sensitive locations.

## **Target levels for significant adverse impacts**

### **Levels for avoiding significant impacts**

Crucially the Statement does not expect that the noise levels representing the onset of effects, or at which effects can be detected, should be the overriding control values. Instead the NPSE focuses on avoiding significant impacts, which may not arise until noise levels are substantially higher than the lowest values at which effects can be detected.

The policy statement is very clear that judgements as to significance should be made ‘in the context of Government policy on sustainable development’. Some may be concerned that the NPSE may appear to lessen the rigour with which noise is controlled for proposals that deliver high sustainable development gains, such as sustainable energy schemes. However, the negative impacts of noise could be outweighed by the wider benefits of such developments and noise impacts that might otherwise have been weighed against planning consent may be allowed.

## **NPSE and the WHO guidance on night-time noise levels**

In 2009, the World Health Organisation WHO published guidance on night-time noise levels<sup>5</sup> that supplemented the earlier Community Noise Guidelines, based on external noise levels averaged over a whole year. This suggests an ultimate target value of  $L_{\text{night}}$  externally of 40dB(A), and an interim value of 55dB(A)  $L_{\text{night}}$  externally. The WHO document makes it clear that the ultimate night noise guideline (NNG) is the Lowest Observable Adverse Effect Level LOAEL, although as with all WHO guidance there is no suggestion that this has any potential application in planning or local noise management.

### **Realistic and achievable target levels**

In contrast to the WHO document, the Noise Policy Statement for England at paragraphs 2.20 and 2.21 reinforces that it seeks to avoid ‘significant adverse impacts’ and distinguishes these from the more stringent Lowest Observable Adverse Effect Levels used to set the WHO’s ultimate night-time noise target by referring to Significant Observed Adverse Effect Levels SOAEL *ie* the levels above which significant adverse effects on health and quality of life occur. It appears that the NPSE does not promote or otherwise sanction the ultimate WHO night noise target of  $L_{\text{night}}$  externally of 40dB(A) as an overall policy objective. Instead it seeks to promote a more realistic and achievable target in order to avoid significant adverse effects.

### **Influence on cost-effective management of noise**

The application of the NPSE should mean that noise is properly taken into account at the appropriate time. In the past, the opportunity for the cost-effective management of noise has often been missed because the noise implications of a particular policy, development or other activity have not been considered at an early enough stage. This means that noise needs to be considered at the earliest stage, to satisfy both the planning requirements of the local authority and permitting requirements of any regulating body such as the Environment Agency, rather than being dealt with as two separate requirements.

### **Consideration of noise alongside other issues**

The application of the NPSE should enable noise to be considered alongside other relevant issues and not to be considered in isolation. For example, the positive benefits of wind turbines in reducing emission of pollutants would be considered alongside environmental impacts of noise. In the past, the wider benefits of a particular policy, development or other activity may not have been given adequate weight when assessing the noise implications. This means that strategic nationally important projects such as alternative energy projects would need to be viewed more favourably than other projects with less benefit to society as a whole.

### **Implications for localism**

Instead of trying to put a national stamp on areas of widely differing character, the Statement allows a bottom-up, even neighbourhood-based, approach well suited to the current theme of localism. For example, planners and the Planning Inspectorate should take the NPSE into account when determining planning applications if they feel that current policies and practices are unclear. Its application should have no cost, and it is intended that if anything there may be a cost benefit by providing clarity regarding current policies and practices.

However, along with the benefits of ‘localism’ there come substantial risks of inconsistent or inappropriate application of the policy. For example, a busy road may separate planning authorities, but each planning authority could have a different interpretation of the NPSE and

apply widely different targets to noise sensitive development in locations that, whilst separated by an administrative border, are essentially the same in nature and character.

## **Legal status in the devolved administrations**

The NPSE has the legal status of a statement of government policy, not simply Defra's policy. Consequently every department will be expected to noise-proof future policies against it. In time, departments will be expected to review their existing policies against the Statement too. There is no equivalent in the devolved administrations. However, officials are liaising so that the devolved administrations can form a view regarding whether such a statement would be helpful for them.

## **Effects on other Government policy areas**

The Statement is already having an effect on other Government policy areas. The revised draft Overarching National Policy Statement for Energy (EN-1)<sup>6</sup> published by the Department of Energy and Climate Change (DECC) in October 2010, for example, says that the Infrastructure Planning Commission (IPC) should not grant development consent for a major infrastructure project unless it is satisfied that the proposals will meet the Statement's aims. The IOA's response to the consultation on the National Policy Statement for Energy can be found on the IOA web site<sup>7</sup>.

Perhaps unexpectedly, EN-1 consequently incorporates the core policy aims of the NPSE into Wales. Likewise, the Environment Agency is currently reviewing and rewriting its Horizontal Guidance for Noise<sup>8</sup>. It is certain that the updated guidance will be consistent with the aims of the NPSE. It is unlikely that there will be different guidance for Wales, since the NPSE is largely consistent with the fundamental principles of the Environmental Permitting Regulations.

## **Conclusions**

The declaration of overarching noise policy presented in the Noise Policy Statement for England is welcomed as it should lead to a joined-up approach to dealing with noise at all levels *ie* central, regional and local government, and between potentially competing jurisdictions and departments within those bodies. The application of the NPSE should mean that noise is properly taken into account at the appropriate time. Consequently, its application should have no cost, and there may indeed be a cost benefit by providing clarity regarding current policies and practices. The NPSE concerns the management of noise. This implies that it might include aspects of the wider management of the overall acoustic environment. The Statement should therefore be interpreted to embrace more than just the reduction of noise levels. The commitment to, and placing of noise in the health and sustainability agenda demonstrates the importance of these issues and their priority relative to other important considerations. The possible implications for acousticians in England and for the Institute of Acoustics have not yet been fully realised. Should, for example, the Institute endorse the NPSE? Would Council then be required to ensure the vision and aims of NPSE are enshrined in the day-to-day activities of all members? These issues and the wider implications of the NPSE will be discussed in depth at an IOA Workshop to be held at the University of Salford on 24 May 2011. The authors urge members to make their views known at that event.

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<sup>1</sup> [http://www.legislation.gov.uk/ukxi/2006/2238/pdfs/ukxi\\_20062238\\_en.pdf](http://www.legislation.gov.uk/ukxi/2006/2238/pdfs/ukxi_20062238_en.pdf)

<sup>2</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:189:0012:0025:EN:PDF>

<sup>3</sup> [http://www.defra.gov.uk/sustainable/government/publications/uk-strategy/documents/SecFut\\_complete](http://www.defra.gov.uk/sustainable/government/publications/uk-strategy/documents/SecFut_complete)

<sup>4</sup> <http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement1.pdf>

<sup>5</sup> [http://www.euro.who.int/\\_data/assets/pdf\\_file/0017/43316/E92845.pdf](http://www.euro.who.int/_data/assets/pdf_file/0017/43316/E92845.pdf)

<sup>6</sup> <https://www.energynpsconsultation.decc.gov.uk/docs/RevisedDraftOverarchingNationalPolicyStatementforEnergy%28EN-1%29.pdf>

<sup>7</sup> <http://www.ioa.org.uk/uploads/response-to-consultation-paper-documents/Energy-NPS-Consultation.pdf>

<sup>8</sup> [http://www.environment-agency.gov.uk/static/documents/Business/ipcc\\_h3\\_part\\_2\\_1916903.pdf](http://www.environment-agency.gov.uk/static/documents/Business/ipcc_h3_part_2_1916903.pdf)