

Draft Overarching National Policy Statement for Energy (EN-1)

DECC Consultation Document - November 2009

This review has been prepared on behalf of the Institute of Acoustics (IOA) in response to the invitation to comment on the Department of Energy and Climate Change's Draft Overarching National Policy Statement for Energy (EN-1) dated November 2009.

The Institute of Acoustics

The IOA is the leading professional body in the United Kingdom concerned with acoustics, noise and vibration and is active in research, educational, environmental and industrial organisations. The Institute is a nominated body of the Engineering Council, a member of the International Institute of Noise Control Engineering and the International Commission on Acoustics and a founding member of the European Acoustics Association. Members of the IOA are active in the development of UK, European and International Standards.

The IOA also gives support to the development of legislation and policy in the various disciplines in the field of acoustics and its response to the consultation document is based on this role. The IOA, however, represents a wide range of members and disciplines in acoustics and the comments presented here are the consensus view of the Environmental Noise Group, which is formed by members who specialise in environmental noise issues as acoustic consultants, local authority officers and academics. The response has been developed by the Institute's Environmental Noise Committee and subsequently passed to members of the IOA Executive for approval prior to submission.

Comments

The Institute of Acoustics (IoA) regards the draft NPS as a welcome statement of intent and broadly agrees with the content of the document.

The IoA suggests that the references to specific standards and guidance on noise measurement, interpretive analysis and assessment are withdrawn from the main document. Our understanding of the effects of environmental noise is improving rapidly, but it remains less than definitive in some areas, and existing standards and guidance can sometimes be applied outside their intended scope. The institute would like to see a clear separation between policy and technical advice in the NPS and suggests that the references to specific standards and guidance are withdrawn from the document. Instead the NPS should make plain what policy the IPC is applying in regard to noise, and direct those preparing information accompanying a scheme to fully justify their choice of standards and guidance on noise measurement, interpretive analysis and impact assessment; in the context of the specific noise sources, the nature and characteristics of the locality, and the likely impacts of the noise.

The IoA regards the existing government policy/technical advice in PPG 24 on planning and noise, in regard to the noise generating schemes and activities likely to fall under the IPC regime, as far from definitive, and deficient in certain aspects. As an interim short-term measure and in the absence of more suitable bespoke technical guidance, the IoA reluctantly accepts that the IPC will still have to refer to this document. However, the IoA wishes to draw the IPC's attention to the more recent Environment Agency guidance on noise for the IPPC regime¹, which is more comprehensive than PPG 24 in its consideration of noise generating development. But in the medium to long term the IoA strongly supports the development of specific evidence and research to support IPC policy, in regard to noise generating infrastructure development.

The policy is to weigh the adverse impacts against the benefits, but there appears to be no mechanism advised as to how such a cost benefit exercise can be undertaken. Whilst the IoA agrees with this policy aim; we would welcome a clearer statement, perhaps in a separate guidance document rather than included in IPC policy, of the factors to be taken into account in weighing the residual adverse impacts of noise against the wider benefits of a scheme and how such a judgement can be made.

If our interpretation of the draft NPS statement is correct, the IoA is pleased to see the existing limited compensation for significant adverse noise impacts extended to cover any significant adverse residual noise impacts remaining after mitigation, for all IPC schemes; not just limited to depreciation of property value in the limited number of cases specified in the Land Compensation Act 1973. Should our interpretation of the draft NPS be wrong in this respect, we would welcome a clear statement in the final draft of the NPS implementing a policy encouraging compensation for amenity loss as well as depreciation of property values in situations where noise impact is unavoidable after all mitigation options have been exhausted.

The IoA is pleased to see that the draft NPS recognises that noise can have direct effects on health and requires that an ES for an IPC scheme should consider the impacts on health.

Due to the subjective nature of the law of nuisance, the IoA is concerned that as the draft NPS stands the IPC will find it difficult to confidently and consistently appraise the likelihood of nuisance; or be able to reliably determine if adequate mitigation measures are incorporated into scheme proposals to avoid nuisance. The IoA considers that, in order to reduce this risk, the NPS should adopt a risk based and precautionary approach to avoiding nuisance from IPC schemes, and should not routinely exempt schemes from the statutory nuisance regime. Instead the IoA would prefer that the NPS should presume against exemption and require that those who will be affected or local authorities etc. should not have to demonstrate that nuisance is likely. Instead the applicant should have to apply for any exemption from the statutory nuisance regime and the IPC should only consider such a request where the applicant can demonstrate using the concepts of Best Practicable Means or similar i.e. BATNEC, that all reasonably practicable and foreseeable measures to avoid nuisance have been incorporated into the proposals.

Notwithstanding our comments made in regard to the subjective nature of the concept of nuisance, the IoA broadly welcomes the part of the draft NPS that specifically addresses noise (section 4.26). In particular the IoA would be pleased if the final version retained the text from the draft NPS which advises that in assessing a scheme the IPC should seek to achieve the following:

¹See http://www.ni-environment.gov.uk/ippc_h3_pt1.pdf & http://www.environment-agency.gov.uk/static/documents/Business/ippc_h3_part_2_1916903.pdf - Both viewed 8th February 2010

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- avoid significant adverse impacts on health and quality of life from noise;
- mitigate and minimise other adverse impacts on health and quality of life from noise; and
- where possible, contribute to improvements to health and quality of life through the effective management and control of noise.

Also that:

- the IPC should not grant development consent unless it is satisfied that all reasonable steps have been taken, and will be taken, to minimise noise impacts.