

PAN 56/PPG 24 - ANY IMPROVEMENT?

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1. INTRODUCTION

In April of this year the Scottish Office (now Scottish Executive) published Circular 10/99 and Planning Advice Note 56 (PAN 56) both entitled "Planning and Noise". Up until the publication of PAN 56 the planning guidance in Scotland was SDD Circular 23/73 and accompanying memorandum 24/73, which to all intents and purposes was the same as 10/73. While there was a bit of a time lag between the publication of PPG 24 and PAN 56 it should be noted that PPG 24 was in fact viewed as a material consideration in planning work in Scotland. The planning and noise guidance contained within PPG 24 has been subject to extensive scrutiny by the acoustics community since its introduction in 1994. In 1996 the Department of Environment awarded a research contract to review the technical application of PPG 24. The findings of the research contract have not been made public, however, IOA members were given the opportunity to contribute to the research through workshops and the Institute of Acoustics Bulletin^{(1),(2)}. The aforementioned research was not intended to make any changes to policies and principles contained in the guidance. The objective of this paper is to consider whether or not given the extensive professional debate on the content and application of PPG 24, PAN 56 could be viewed as an improvement. This paper is not an exhaustive coverage of PPG 24 versus PAN 56.

2. CIRCULARS AND ADVICE NOTES

Before progressing any further it is worth noting that a Scottish Office (Executive) Circular, as well as providing statements of Government policy also contains guidance on policy implementation through legislative or procedural change, while Planning Advice Notes provide advice on good practice and other relevant information. The 1994 Department of the Environment publication PPG 24 is planning policy guidance and as such provides a statement of policy, the technical advice is contained within Appendices to PPG 24. The Scottish Office statement of policy is contained within Circular 10/99 and the general advice on good practice contained within the PAN.

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3. NEC's

3.1 NEC's - Adoption as Criteria

PPG 24 introduces the concept of NEC's and in the absence of further comment it is assumed that the NEC standards are to be adopted as criteria by planning authorities. Paragraph 50 of the PAN simply suggests the use of NEC's in helping planning authorities determine relevant applications. The use of the word "suggests" could be viewed as reduction of the emphasis on which planning authorities should view NEC's. Such supposition is in fact strengthened by the further comment in the Paragraph 51 which states that *"The NEC's will carry more weight if incorporated into development briefs etc"*. Circular 10/99 simply states that *"Planning authorities are expected to have regard to these standards in reaching development control decisions"*. Therefore, it would appear that there is less emphasis on the use of the NEC criteria in PAN 56 than that found in PPG 24 in terms of the standard criteria to be adopted by planning authorities.

3.2 Use of NEC's

PPG 24 contains contradictory evidence in the use of NEC's; while Paragraph 3 of Annex 1 clearly states that the NEC noise level *"should not be used for assessing the impact of industrial noise on proposed residential development..."* it goes on to state that *"However, at a mixed noise site where industrial noise in present but not dominant, its contribution should be included in the noise level used to establish the appropriate NEC"*. This is a misrepresentation of the WHO level of 55dB(A). Remember the level of 55dB(A) was derived on the basis of criterion curves and criterion curves used were concerned with aircraft or road traffic noise. On the basis of the information presented in the 1980 WHO document industrial noise as a lesser or equal contribution to the transportation noise sources is not part of the evaluation of acceptability. Why then should PPG 24 offer advice on the acceptability of industrial noise when it is not the dominant source but could be contributing as much as the transportation sources to the overall level?

This point was discussed during the drafting of the PAN and the decision was made to completely exclude industrial noise from the NEC's. When industrial noise is the dominant source PPG 24 refers the reader to Paragraph 19 of Annex 3 where the advice is that in assessing the suitability of a site for residential development where industrial noise is the dominant source BS 4142 can be used where appropriate. That then leads on to the question of whether or not it is appropriate to use BS 4142 in reverse i.e where there is no pre existing occupier with a predetermined level of *amenity* to experience any increase in noise level. In addressing the suitability of sites for residential development given an industrial noise source PAN 56 does not endorse the use of BS 4142. There is absolutely no mention of BS 4142 in Paragraphs 45 - 49 of PAN, (Paragraphs 45 - 49 deal with noise sensitive development). The PAN does advise the assessment of impact of the existing noise source on the noise sensitive development, an integral part of the assessment being the assessment of existing noise levels but the existing noise levels can be described in terms of the most appropriate parameter which is not necessarily the L_{A90} for pre-existing noise levels. The PAN states, in Paragraph 48 that *"that "Planning authorities should consider carefully in each case whether proposals for new noise-sensitive development would be incompatible with existing noisy activities. Sources of intermittent or tonal noise e.g. noise from industrial development, will require individual assessment and noise impact will need to be assessed against existing noise level, using the most appropriate parameters, and in terms of local circumstances and possible changes in noise climate"*. In other words the PAN is quite clear in its advice that sites must be assessed very much in the light of local circumstances and it does not offer prescriptive advice on acceptable site levels. PAN 56 has therefore eliminated the contradictory advice given in relation to evaluation of industrial noise.

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3.3 Definition of NEC's

Another significant variation between PPG 24 and PAN 56 are in the definitions contained within the NEC's. The NEC's from both PPG 24 and PAN 56 are reproduced for clarification with the PAN 56 differences emboldened.

PPG 24 Definition of NEC's

NEC	
A	Noise need not be considered as a determining factor in granting planning permission, although the noise level at the high end of the category should not be regarded as a desirable level.
B	Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise.
C	Planning permission should not normally be granted. Where it is considered that permission should be given, for example because there are no quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise.
D	Planning permission should normally be refused.

PAN 56 Definition of NEC's

NEC	
A	Noise need not be considered as a determining factor in granting planning permission, although the noise level at the high end of the category should not be regarded as a desirable level.
B	Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise. For proposed development subject to the high end of the category a Noise Impact Assessment will assist authorities in identifying appropriate noise mitigation measures.
C	Planning permission should not normally be granted. Based upon the evidence contained within a Noise Impact Assessment, however, it may be possible to grant permission subject to measures that ensure an adequate level of protection against noise.
D	Planning permission should generally be refused.

Following on from the definition of NEC's in PAN 56 it is stated that "***An adequate level of protection should normally be interpreted to mean commensurate with Category A levels. Where the development is desirable in terms of the overall planning strategy for the area but where local circumstances or excessive costs prohibit the effective mitigation of noise commensurate with Category A level consideration may need to be given to relaxing noise standards. In such cases, internal noise levels within individual living apartments should be less than 45dB(A) during the day and 35dB(A) during the night. Levels should be predicted using the appropriate time periods and the L_{Aeq} parameter.***"

In defining Category B PPG 24 stops at advising that conditions are imposed to ensure an adequate level of protection against noise. PAN 56 takes the matter a step further with additional advice that at the high end of the Category a Noise Impact Assessment will assist authorities in identifying appropriate noise mitigation measures. The PAN 56 extended

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definition could be viewed as recognising that while Category A levels may be the ultimate goal in planning terms, it is unreasonable to expect the planners to require the same degree of quietness found in a rural community when considering a city centre or even suburban site. The use of the word appropriate in terms of the actual mitigation measures in the PAN 56 definition of Category B could be viewed as recognising the difficulties in the application of the NEC's when the aim is a site level falling within Category A.

The differences in the definitions of Category C again suggest that PAN 56 is more pro development. Where in PPG 24 the definition includes reference to permission being granted because there are no other quieter sites available PAN 56, by way of its reliance on a Noise Impact Assessment, which should take into account the nature of the noise climate of the surrounding area, appears to take a broader view which is in line with the content of Paragraphs 1 and 9. Paragraph 1 states that *"This advice note demonstrates the role of the planning system in preventing and limiting the adverse effects of noise without prejudicing investment in enterprise, development and transport"*. Paragraph 9 goes on to state that *"... developers should reasonably expect that suitable sites will be allocated for activities essential for economic development and employment, even though they involve noisy processes or require extended hours of operation"*. The impression is that while PPG 24 would only allow development in extreme circumstances such as when there no other sites available PAN 56 would lean more towards the overall development plan and character of the surrounding area as described in the Noise Impact Assessment.

The use of the word *"generally"* in PAN 56 versus *"normally"* in PPG 24 Category D again follows the more pro-development approach. *"Generally"* means commonly or for the most part whereas *"normally"* has a more authoritative tone as in not to do so would be extraordinary.

The differences in the definition of NEC's are interesting. It would certainly appear that PAN 56 is more pro-development than PPG 24 in terms of the clear pointers to individual assessment and definite prescriptive recommendations on internal levels. One surprising retention in the PAN is the range within which NEC's can be varied. Paragraph 9 of PPG 24 allowed the NEC's to be varied in range by 3dB. Given the extended NEC definition in the PAN and the emphasis on Noise Impact Assessment the inclusion of this permissible variation in Paragraph 2 of Annex 1 is both surprising and unnecessary.

4. CATEGORISING SITES

There was a great deal of debate over PPG 24 Annex 1 Paragraph 8 which required that the noise level be measured on an open site at the position of any proposed dwellings at a height of 1.2 to 1.5m above ground level. PAN 56 makes quite clear that predictions are acceptable. It is also clear in its requirement that site features which cause noise levels to differ from those on an open site other than features whose presence in the completed development could be ensured by means of a planning condition or agreement should be taken into account in categorising the site. Further clarification is given in respect of measurement or prediction height in that it should be 1.2 to 1.5m above the ground for single story development and 1.2 to 1.5m above the proposed internal floor level for each additional storey.

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5. INTRODUCTION OF NEW NOISE SOURCES

5.1 Noisy Development

PPG 24 is very clear in its instruction to local authorities in that they "*must ensure that development does not cause an unacceptable degree of disturbance*", (see Paragraph 10). PAN 56 is more cautious in its direction to local authorities in that Paragraph 17 states that "*Planning authorities should generally aim to ensure that development does not cause unacceptable noise disturbance*". A subtle change in words with fairly major implications for close run planning appeals. The pro development line is further enhanced with the last sentence of Paragraph 17 in PAN 56 which states that "*Areas vary in character and levels of noise that are acceptable in one location may not be acceptable in another*". The latter statement has echoes of the 1879 *Sturges v. Bridgeman* judgement in which it was stated that "*what would be a nuisance in Belgrave Square would not necessarily be so in Bermondsey*". The emphasis of PAN 56 is very much on individual Noise Impact Assessment and as stated in Paragraph 14 of the PAN the criteria for assessing the impact of noise on its surroundings is to be established. In other words the criteria could vary from site to site and with the exception of advice on acceptable internal levels the advice offered is not prescriptive.

PAN 56 clearly separates industrial noise from commercial noise (see Paragraphs 35 to 37 for industrial noise and Paragraphs 38 to 39 for commercial noise).

5.2 Industrial Sources

Where a new industrial source is to be introduced into an area PPG 24, in Paragraph 19 of Annex 3 recommends that where appropriate BS 4142 should be used. PAN 56 on the other hand, refers to BS 4142 as a "*useful guide*" but states that it "*should not be relied upon to accurately establish the impact of industrial development in terms of noise*", and refers to the significance of absolute levels in assessing the impact of the industrial noise.

5.3 Commercial Sources

Although the definition of commercial developments remained broadly similar PAN 56 makes specific reference to noise resulting from amplified music. There is also a fairly surprising reference to the possibility of attaching conditions to noise resulting from customers and vehicles in the vicinity of the premises in question. It is difficult to grasp how planning conditions which would stand up to the six tests set out in Circular 4/1998 could be applied to noise in streets (this is a police matter and not one for planning authorities). Another variation from PPG 24 in terms of commercial premises is the reference in Paragraph 6 of Annex 3 that inaudibility may be appropriate. However, reference, in the case of the PAN is once again made to Circular 4/1998 and the test of inaudibility would require to be proved robust in terms of the requirements of the Circular.

5.4 Examples of Planning Conditions

PAN 56 does not contain any examples of planning conditions comparable with those given in Annex 4 of PPG 24. For advice on the drafting of planning conditions one should refer to the 1999 Addendum to Circular 4/1998 "Model Planning Conditions" which supercedes the Appendices contained within the Circular 4/1998 "The Use of Conditions in Planning".

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6. CONCLUDING COMMENTS

While the considerations of PAN 56 and PPG 24 covered in this discussion paper are not exhaustive the emerging trends in the comparisons made are certainly of a greater tendency towards pro development in PAN 56. The emphasis on Noise Impact Assessments is interesting especially when viewed in tandem with the rather wishy washy approach to the adoption of the NEC categorisation as guidance in assessing suitability of development. Further pro development advice is given in Paragraph 51 directly underneath the NEC's where it is stated that if the development is desirable in terms of the overall planning strategy or because the cost of site mitigation is too great internal levels are to be considered. The latter statement effectively bins any reliance on site standards and gives the planning authority or Reporters Unit the task of evaluating what is meant by "excessive cost".

The clarification over "open" sites for site classification together with clear instruction on measurement height is welcome. However, the retention of the permitted variation of the NEC's (Annex 1 Paragraph 2) is not as this simply leads to confusion especially in view of the less prescriptive approach adopted in PAN 56.

The reference to the noise climate being assessed by means of the most appropriate parameter (Paragraph 48) is recognition of the less prescriptive approach to noise assessment. The overuse of BS 4142 in PPG 24 can ignore situations where characterisation of the existing noise levels in terms of the L_{A90} would be unrepresentative.

The emphasis placed on Noise Impact Assessment is an improvement as is the advice that planning authorities and the applicant's representatives should agree a baseline and where possible criteria to be adopted.

Finally, the approach adopted in PAN 56 is a move away from prescriptive assessment using simple handle turning and gives the job of noise impact assessment back to the experts.

References

1. "PPG 24 - Planning and Noise", Rupert Thornley-Taylor
Acoustics Bulletin March/April 1998
2. "Letters to the Editor"
Acoustics Bulletin September/October 1998