

NOISE POLICY STATEMENT FOR ENGLAND – 7 YEARS ON

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The Noise Policy Statement for England (NPSE) was published just over 7 years ago. At the time a journalist in a national newspaper commented that "The publication of the Noise Policy Statement for England...should influence many of the most significant proposed changes to our national life over the next decade". This paper will provide some background to the development of the NPSE and look at how the principles to be found in the NPSE have subsequently appeared in other policy documents. Examples of the application of the NPSE will be described and, with less than three years of that 'next decade' to go, a view will be given regarding whether the anticipated influence has occurred.

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1. Introduction

The Noise Policy Statement for England¹ was published on the 15th March 2010. Two days later, the Independent newspaper of London published an article entitled "Don't drown out awkward information". The article opened with this statement:

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 Department for Environment, Food and Rural Affairs), The Noise Policy Statement for England.

Through the carefully worded legalese of this document, it is recognised – somewhat belatedly, many of us would say – that noise in the air around us is as worthy of the term "pollution" as poison in a river.

That final sentence was a little harsh as, arguably, noise had been reasonably systematically managed in the UK since around 1960. However, in the fifty years up to the publication of the NPSE, there was no clear single policy regarding the management of noise and, more importantly, what outcome was to be achieved. Instead, there were various guidance, standards and policy documents that dealt with different sources and different situations. Some included precise numerical criteria, others provided general advice. There were, though, many situations where there was no guidance that was directly relevant. In those cases, consultants still had to undertake an assessment, often by stretching the scope of applicability of other standards, in order to form a conclusion about the impact and effect.

2. Background

In January 2000, the UK Government published an Air Quality Strategy, and, at that time, there was a feeling that as an Air Quality Strategy now existed, there should be a similar strategy for noise. In November 2001, the Government published a consultation document entitled “Towards an Ambient Noise Strategy”. In this context, ambient noise primarily meant noise from transportation. The consultation document included proposals for undertaking noise mapping; evaluating and identifying options to address issues, and agree the necessary policies to move towards a strategy. The similarity between these proposals and the Environmental Noise Directive, that was emerging at that time, was no coincidence.

In an announcement towards the end of 2002, it was confirmed that the consultation had secured huge support for the proposals (89%), but 84% of respondents also said that there should be similar strategy on neighbour noise. The Government confirmed that it would also look at neighbour noise.

For many valid reasons, progress on developing a strategy slowed. For a while there was thought of having two separate strategies and then a combined strategy. But other changes were occurring that needed addressing including the transposition and implementation of the Environmental Noise Directive, a wholesale revision of all planning guidance and various legislative updates relating to the management of noise. Consequently, by 2009, although there were draft noise action plans covering road, rail, aviation and industrial noise, there was no noise strategy. Yet, over that period, questions were periodically asked in Parliament regarding the absence of a noise strategy.

It was decided that, if progress was to be made, there needed to be a clear policy setting out what the strategy would be aiming to achieve. Without such a policy, it was argued, it would be virtually impossible to know whether or not the strategy had been successful. Therefore, it was agreed that a noise policy would be developed, and because noise was then a fully devolved matter, what was produced was the Noise Policy Statement for England

3. The Noise Policy Statement for England

One of the key needs was for a policy that covered all sources in all situations. Therefore, a way had to be found of achieving that goal without producing a very large document that considered in detail every possible noise source and noise receiver permutation.

Looking back over the type of noise management that had previously occurred, there had been broadly three elements. Firstly, current practice tried to result in no large adverse impacts. Current practice also sought to minimise adverse impacts, with, ideally, having no adverse impacts at all. Finally, underlying it all was the recognition that there would have to be some compromise, and issues of cost and practicality had to be taken into account. The policy also had to reflect current law. Noise became a statutory nuisance in 1960 and, for certain situations, that immediately locked noise management into several centuries of case law on nuisance.

There was also the fundamental question to answer of what is the purpose of managing noise. It was known that noise causes disturbance and interference, can lead to annoyance and generally spoil a person’s quality of life. It was also known that annoyance can increase stress and lead to poor health and that long-term exposure to high levels of noise can also lead to unconscious adverse health effects such as Cardio-Vascular Disease. The purpose of noise management, therefore, was to reduce these adverse effects. This thought led to the development of the NPSE Vision which states:

Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development

As observed by the author of the article in the Independent newspaper, these words were carefully chosen. “Promote” not “Achieve”, “good” not “excellent”. The rationale was that there was no point in having a vision that is, from the outset, highly unlikely to be achievable. Another important word

in the Vision is “management”. Prior to the NPSE the focus of dealing with noise had mainly been on reducing the noise level, as far as possible. Whilst that approach is important, the Vision recognises that some adverse effects of noise can be resolved by other means.

The Vision in the NPSE is supported by three aims. They are set out as follows:

Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- *Avoid significant adverse impacts on health and quality of life;*
- *Mitigate and minimise adverse impacts on health and quality of life;*
- *Where possible, contribute to the improvement of health and quality of life.*

The first two aims broadly reflect how noise management had been carried out, as indicated above. Therefore, this aspect of the policy was not new. It is the third aim that, for the first time, sought to use noise management not solely as a means of dealing with undesirable situations, but using it, positively, to improve matters.

The Policy is supported by explanatory notes. As part of them, and in order to help with the implementation of the policy, concepts from toxicology were introduced, including NOEL (No Observed Effect Level) and LOAEL (Lowest Observed Adverse Effect Level). The notes extended these concepts with SOAEL (Significant Observed Adverse Effect Level). With these concepts in place, the first bullet point of the aims requires impacts above SOAEL to be avoided. The second bullet point addresses impacts between LOAEL and SOAEL and requires them to be mitigated and minimised. The Explanatory Note also recognises that

It is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times. It is acknowledged that further research is required to increase our understanding of what may constitute a significant adverse impact on health and quality of life from noise. However, not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available

The same is not really true for LOAEL. Many of the guidelines from the World Health Organisation, for example, describe the exposure at which adverse effects start to be detected. So LOAEL values are generally available from those guidelines for many situations.

4. Implementation of NPSE

The NPSE was published towards the end of a Government run by the UK’s Labour party. Following a General Election that occurred about two months later, a coalition Government of Conservatives and Liberal Democrats came to power. Within a couple of months, though, that administration confirmed that they were content to continue using the NPSE as the over-arching Government policy on noise. The General Election of 2015 resulted in a Conservative government and, once again, the relevant Government Minister stated that the NPSE remained the overarching noise policy.

Those confirmations have provided stability for the framework of noise policy. That outcome, however, is not totally surprising as the policy is reasonably apolitical. There is no overt requirement for Government expenditure for the policy to be followed. Neither is there any actual or perceived threat to economic growth and prosperity if the policy is followed. Furthermore, the vision and aims seem sensible. The policy, however, has attracted criticism. There have been some who feel that the

qualification embedded in the policy of ‘in the context of Government policy on sustainable development’ means that the noise impact is not that important if a project can be shown to be sustainable. Conversely, there are those who feel the policy is not ambitious enough, with its lack of targets or limits.

4.1 National Planning Policy Framework (NPPF)²

In 2012, an overhaul of the English planning system commenced with the publication of the National Planning Policy Framework (NPPF). It replaced many policy guidance documents including, on noise, Planning Policy Guidance 24: Planning and Noise.

The first sentence of the Ministerial Foreword to the NPPF stated that “The purpose of planning is to help with sustainable development” indirectly reinforcing the reference to sustainable development in the NPSE. Noise was addressed in the NPPF under the overall heading of “Conserving and enhancing the natural environment”. Paragraph 123 includes the following:

Planning policies and decisions should aim to:

- *Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
- *Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions*

It can be seen how the sentiments contained in the aims of the NPSE are reflected in this planning document.

Paragraph 109 of the NPPF also, effectively, sets out a limit:

The planning system should contribute to and enhance the natural and local environment by: ...

- *Preventing both new and existing development from contributing to or being put at risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability...*

Conceptually, therefore, there is a degree of noise impact that would not be permitted to occur regardless. In implementing the policy, some practitioners have added to the effects acronyms by using UAEL (Unacceptable Adverse Effect Level).

4.2 Planning Practice Guidance on Noise (PPG(N))³

The NPPF was supported in 2014 by a suite of web-based planning practice guidance, including a section covering noise. A question and answer format was used and the PPG(N) confirmed the above interpretation of paragraph 109 of the NPPF with this text:

Can noise override other planning concerns?

It can, but neither the Noise Policy Statement for England nor the National Planning Policy Framework (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.

The ‘in the context’ phrase in the NPSE had, therefore, become to be interpreted to mean that a balance has to be struck. Some argue, however, that this interpretation is in conflict with Paragraph 8 of the NPPF where it states that sustainable development is achieved if economic, social and environmental gains are sought jointly and simultaneously through the planning system. Pragmatically, though, it is debatable just how often that outcome can actually be achieved. Consequently, the next best outcome would appear to be securing a balance, and it is this interpretation that is being followed. Broadly, if the noise making activity has social, economic or environmental value, some noise burden may be the price society has to pay to enjoy that value. Ideally, there would be no adverse impact. If that outcome can be straightforwardly achieved, that is what should occur. More often than not, though, there will be some noise burden: but significant adverse impacts and effects should be avoided; and adverse impacts and effects should be mitigated and reduced to a minimum. However, there are limits and unacceptable noise impacts will not be permitted regardless of the value of the activity.

The PPG(N) also offered an effects hierarchy as shown in Table 1 below:

Table 1: Summary of noise exposure hierarchy, based on likely average response

Perception	Examples of Outcomes	Increasing Effect Level	Action
Not noticeable	No Effect	No Observed Effect	No specific measures required
Noticeable and not intrusive	Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly affect the acoustic character of the area but not such that there is a perceived change in the quality of life.	No Observed Adverse Effect	No specific measures required
		Lowest Observed Adverse Effect Level	
Noticeable and intrusive	Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.	Observed Adverse Effect	Mitigate and reduce to a minimum
		Significant Observed Adverse Effect Level	
Noticeable and disruptive	The noise causes a material change in behaviour and/or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid
Noticeable and very disruptive	Extensive and regular changes in behaviour and/or an inability to mitigate effect of noise leading to psychological stress or physiological effects, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory	Unacceptable Adverse Effect	Prevent

The aim of this table was to provide assistance regarding how the impact and effect from noise can worsen. Although the table can be most easily interpreted as being associated with increasing noise level, it should not be applied as if it refers solely to noise level. It should also be applied to overall noise exposure and context, i.e. not just level but how often it occurs. For example, if the impact is arising from an entertainment event, the overall effect from just one event held on one day

would be lower compared to the effect that would occur if that event was held every day, even though the sound level from each event was identical.

4.3 Nationally Significant Infrastructure Projects (NSIPs)

A separate set of policies have been published since 2011 to cover NSIPs in England. These come in the form of National Policy Statements (NPSs) covering projects such as power generation, waste water and national networks. Each NPS included a description of the planning test that had to be applied by the decision maker with respect to noise. For each one, the pattern of the test was virtually identical and for the National Networks NPS the test is described as follows:

The Secretary of State should not grant development consent unless satisfied that the proposals will meet, the following aims, within the context of Government policy on sustainable development:

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

The similarity between the planning test and the NPSE can be seen. In terms of influence, therefore, the principles of the NPSE can be seen in both the general planning policy (i.e. the NPPF) and also the policy related to NSIPs. The formal process of decision making for NSIPs requires, ultimately, for the Secretary of State of the relevant Government department to issue a letter confirming the decision made. In relation to a scheme for a major new waste water scheme in London, there was concern that the Examining Authority (the body charged with hearing the various evidence concerning the proposals) had misunderstood the noise policy as set out in the Waste Water National Policy Statement. In the decision letter, the following was stated:

The Secretaries of State therefore consider the Applicant's proposals have succeeded in avoiding significant adverse impacts on health or quality of life as a result of the proposed development. In reaching this view the Secretaries of State have considered wider Government policy on noise. The National Planning Policy Framework, the National Planning Practice Guidance on noise and the Noise Policy Statement for England are all clear that noise management should be determined in the context of sustainable development including the environmental, economic and social benefits of the proposal.

This observation reinforced that, with respect to noise, the current approach is to seek a policy balance.. These comments also affirmed that although a single document might be the primary source of noise policy for a particular application, if there is any uncertainty or ambiguity, then reference should be made to the other noise policies that exist, including the NPSE.

4.4 General Implementation – what has happened

In England, the primary planning function rests with local authorities, and since the advent of the NPSE and NPPF, many local authorities have been amending their local policies to try to align with the national framework. Some have set out their view on values for LOAEL or SOAEL for certain situations. This is permissible under the planning regime, with the PPG(N) covering the point with:

Can Local Plans include noise standards?

Yes...[but] care should be taken, however, to avoid these being implemented as fixed thresholds as specific circumstances may justify some variation being allowed...

The avoidance of applying values as fixed thresholds recognises that no two individuals will necessarily react to, or be affected by, a particular noise source in the same way. Therefore, applying a single value as a fixed threshold implies a false precision over the response that a certain noise exposure may invoke. This concept has proven challenging to implement because most people understand and feel comfortable with using a fixed limit when determining the noise mitigation to apply or whether or not to permit a development. Conversely, it really is not correct to apply a policy that suggests that being 1 decibel above a threshold would lead to a very different outcome compared to just meeting that threshold.

Many Local Authorities, not unreasonably, seek initially, with respect to noise, to have no adverse effects due to noise associated with a new development. Increasingly, though, as the policy implies, that is being recognised as being the ideal, and that, pragmatically, some balance or compromise will be needed to achieve the optimum outcome in most situations.

Despite the clarity that is provided by the PPG(N), some practitioners have taken the view that ‘Avoid’ means ‘not have’ or ‘cannot have’. This is not the correct application of the NPSE. The policy primarily applies at an individual level. But, as mentioned earlier, the NPSE had to take account of current law. It is generally accepted that a noise which is a statutory nuisance is causing a significant adverse impact. However, under the statutory nuisance regime, some noise makers have available to them the defence of Best Practicable Means which can result in the nuisance (i.e. the significant adverse impact) still legally occurring. On that basis alone, ‘avoid’ cannot mean ‘not have’. In addition, it is generally recognised that being highly annoyed is a significant adverse impact. With respect to noise from transportation, it is also known that even at low exposure, there is a residual number of people who are genuinely highly annoyed by noise from that type of source. Thus, it is highly unlikely that it will ever be possible to have no one highly annoyed. So again, it is ‘avoid’ and not ‘cannot have’.

This issue with noise from transportation has started to lead to the concept of LOAEL and SOAEL being applied on a community basis. These thresholds are being defined as the values where the average person would start to experience either an adverse effect or a significant adverse effect. This approach still recognises that such effects can occur for some at lower exposure. In many cases those affected are likely to be the more sensitive in the population. There may be criticism, with this approach, that these sensitive people are being ignored but the situation is probably better than it was when noise management simply focused on meeting fixed thresholds. Then, the more noise sensitive were not really considered at all; now, at least, they are acknowledged, even though as a group they are probably going to have to continue to carry a noise burden in order to achieve the economic and social value arising from the noise making activity.

There is increasing evidence regarding the implementation of the third aim of the NPSE. The concepts of soundscape and positive aural environment are becoming more established. The PPG(N) also shows how having access to quiet or relatively quiet space can assist in reducing the adverse impacts that occur. There are emerging examples of proposals that specifically seek to achieve the third aim, and many developments are designed to produce a net noise benefit.

Overall, noise impact assessments are increasingly referencing LOAEL and SOAEL and applying the policy by evaluating the likely impact in terms of those concepts. There is also a growing consensus about what might be regarded as LOAEL and SOAEL for various more common situations. Consequently, it can be concluded that the principles of the NPSE are increasingly being used to manage noise in England.

4.5 General Implementation – what could happen

Evidence from the noise mapping carried out under the terms of the Environmental Noise Directive along with other, less precise, evidence shows that there are many people in England exposed to noise that would be expected to cause a significant adverse impact and effect. The policy does allow initiatives to be taken to address particular situations where such impacts are occurring and there is one very good example of this type of systematic approach. That involves the main highway authority in England, Highways England. That organisation has set aside funds to address those worst affected by traffic noise on their road network and is investigating individual situations to determine what more can be done to meet the overall policy requirements.

5. Conclusions

Seven years on, the influence of the NPSE can be seen. By having an over-arching policy, there is now a reasonably consistent policy framework across many areas of noise management. The policy principles are becoming increasingly embedded and it is increasingly being recognised that the assessment of any noise impact situation can now be carried out with the desired outcome clearly articulated in policy. It seems that some practitioners would still be more comfortable having a simple set of numerical rules to follow when undertaking a noise impact assessment even though the outcome achieved may not be the optimum. Others, though, have embraced the policy and are properly applying it. Consequently, there is still some unevenness in the policy's application.

The management of the impact and effects of noise is inherently complex. Attempts to apply simple concepts can lead to inappropriate or, sometimes, incorrect conclusions being drawn. Although the previous use of fixed thresholds gave the impression of certainty, it tends to be forgotten that many of the values used were judgements, some based on evidence, some based on expediency and some arguably, on reasonably arbitrary decisions. Consequently, even when there appeared to be a precise unambiguous approach, it was, in fact, based on a judgement. The NPSE avoids giving the appearance of what was artificial certainty. Instead it overtly recognises that judgements have to be made, and is clear over the outcome that should be achieved.

In addition, underlying all previous policy there was the concept of 'doing the best possible'. Now the policy recognises that a given exposure can cause a range of impacts, that there is no precise determination that can be made and that, instead, a balance usually needs to be struck using the best available evidence.

The article in the Independent newspaper believed that the NPSE "...should influence many of the most significant proposed changes to our national life over the next decade." Given how, for major projects in England, the policy concepts of the NPSE are being applied diligently, it can be concluded that the NPSE is providing that influence. Seven years is really too short to determine how effective the NPSE has been in helping to manage noise, but there is justifiable hope that the advent of the NPSE is helping to promote good health and a good quality of life through the effective management of noise.

REFERENCES

- 1 Noise Policy Statement for England, Department for Environment, Food and Rural Affairs (2010)
- 2 National Planning Policy Framework, Department for Communities and Local Government (DCLG) (2012)
- 3 Planning Practice Guidance (Noise), DCLG (2014)