

Annex 16.2

Legislation Policy and Guidance

(ERM)

16.1 LEGISLATION, POLICY AND GUIDANCE

General

16.1.1 Noise is generally defined as unwanted sound and is one of a number of statutory nuisances listed in S79 of the Environmental Protection Act 1990.

Legislation

The Environmental Protection Act 1990 (EPA 1990)

16.1.2 The EPA imposes a duty on local authorities periodically to survey environmental noise levels and to investigate noise complaints. The Act requires local authorities to serve notice when nuisance noise exists. Noise from road traffic is exempt from statutory nuisance provisions and is not subject to controls under the EPA 1990.

Noise Insulation (Amendment) Regulations (1978)

16.1.3 According to the Noise Insulation Regulations, properties affected by noise from new roads or road realignments are eligible for compensation, in the form of grants for noise insulation works. The affected dwellings are only eligible where the noise is predicted to be above 68dB L_{A10,18hr} (existing), and the level is predicted to increase by more than 1 dB(A). The compensation scheme does not apply to those living alongside existing roads that will receive increased traffic, where the road itself is not modified or where a reduction in noise levels is predicted to occur as a result of the scheme.

National Policy Statements

16.1.4 The Ports NPS provides the following guidance to the decision maker:

'2.22.13 - When determining the application the decision-maker should be satisfied that the proposals will:

- 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.'*

Planning Policy Guidance/Statements

- 16.1.5 *PPG 24 Planning and Noise* was introduced by the Department of the Environment in 1994. Paragraph 1 of *PPG 24* indicates that it was issued to:
- '...provide advice on how the planning system can be used to minimise the adverse impact of noise without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens of business ... It outlines some of the main considerations which local planning authorities should take into account in drawing up development plan policies and when determining planning applications for development which will either generate noise or be exposed to existing noise sources.'*
- 16.1.6 *PPG24* provides guidance to local authorities on how the planning system may be used to minimise the adverse impact of noise. According to *PPG24*, noise impact assessments should seek to measure or predict and describe noise levels (including traffic noise) to be generated by the proposed development; and the noise to which the proposed development is to be subjected. According to *PPG24* noise assessments should establish the criteria for assessing the impact of the development on its surroundings and outline measures available to reduce impacts to an acceptable level.
- 16.1.7 The general principles of *PPG24* are to ensure that wherever practicable, noise sensitive developments such as hospitals, schools or housing are kept separate from major sources of noise such as transport corridors and noisy industries. *PPG24* does not specifically refer to changes in noise generated by development traffic on the existing road network.
- 16.1.8 For new developments that would introduce noise into an area, *PPG 24* confirms in Annex 3 that it is appropriate to continue using previously established assessment routines, for example for '*noise from road traffic*' (Annex 3, paragraph 1), '*noise from industrial and commercial developments*' (Annex 3, paragraphs 19-20) and '*noise from construction sites*' (Annex 3, paragraph 21). *PPG24* refers to various British Standards and guidance for the detail of noise assessment methods.
- 16.1.9 Noise levels generated by construction activities are regulated by guidelines and subject to local authority control. The Control of Pollution Act 1974 and Part III of the Environmental Protection Act 1990 contain sections which can be applied to construction noise and vibration.

Local Plan Policy

North Lincolnshire Council Local Plan

- 16.1.10 Local Plan Policy DS1 (iii) requires all development to incorporate a high standard of design and specifies that, '*no unacceptable loss of amenity to neighbouring land uses should result in terms of noise...*'.
- 16.1.11 The ERYC *Local Plan* has no general policy on noise associated with development but has particular policies in relation to certain development types such as transport and renewable energy projects. Information relating to noise is outlined in the ERYC's 'Noise and Planning' website (East Riding of Yorkshire, 2010b). ERYC refer to the national guidance set out in *PPG24*.
- 16.1.12 ERYC has produced a *Considerate Contractor Advice Note*, which details the environmental protection requirements, including advice in relation to construction noise (ERYC, 2010c). This leaflet gives guidelines for good site practice and refers developers to *BS5228* which contains information on procedures for noise control on construction and open sites. The requirements set out include giving neighbours who may be affected by particular operations at least 48 hours notice and keeping to normal working hours as far as possible.

Standards and Other Guidelines

- 16.1.13 Advice is contained within *British Standard BS 5228: 2009 noise and vibration control on construction and open sites*. It contains a database on the noise emission from individual items of equipment, activities and routines to predict noise from demolition and construction methods to identified receptors. The prediction method gives guidance on the effects of different types of ground, and barrier attenuation and how to assess the impact of fixed and mobile plant.
- 16.1.14 *BS 4142: 1997 Method for Rating Noise Affecting Mixed Residential and Industrial Areas* details a method of assessing the acceptable noise from industrial sources by rating it against the existing background noise level, LA90, at the closest noise sensitive locations.
- 16.1.15 In the case of a proposed new development, predicted LAeq noise levels are compared with the existing background noise level (LA90) and additional penalties are applied, if appropriate, for noise of an impulsive or tonal nature resulting in the rating level. Assessment

during the day time is based on a one hour duration, whilst at night, a 5 minute period is used.

- 16.1.16 In Section 8 of BS 4142 'assessing the noise for complaint purposes' it is stated that an excess above the existing background LA90 noise level of up to 5 dB, due to noise from fixed plant at a new development, is of 'marginal significance'. Since the introduction of the Standard in 1967 it has been interpreted that where the rating level (noise from the development) is up to 5 dB(A) above the background level is, in general, acceptable. Where the rating level is between 5 and 10 dB(A) above the background level, this is considered to fall into an intermediate area where local conditions may affect the likelihood of complaints arising (such as local perception of the development, the nature of the development, etc). An excess above the background noise level of greater than 10 dB(A) can be taken as a positive indication that complaints are likely. Similarly, a rating noise level from the new plant of 10 dB or more below the background LA90 is stated to be a positive indication that complaints are unlikely.