Draft NPPF – Overarching response from the Association of Noise Consultants

The initial text was submitted as an email that supports the response from the ANC made on the Citizen Space portal. The formal response is shown below that and only includes the questions where a response was made.

Summary

Our main concern is that there are inconsistencies between the draft NPPF and wider Government policy on noise management. There is also some lack of clarity. If neither of these issues is corrected, the Government's desire to bring "laser like focus on delivery" will inevitably be caught up with lengthy and costly legal battles that would play out in examinations and planning inquiries.

Background

The Association of Noise Consultants ('ANC') is the representative body for acoustics consultancies in the UK with around 110 member companies employing over one thousand consultants. Members of the ANC work on a variety of projects for which the policies in the National Planning Policy Framework (NPPF) apply, largely in the capacity of assisting developers meet their policy obligations.

The ANC's response can be found in the Citizens Space Portal. However, it was felt that providing some overarching background to our response might assist officials in evaluating, and hopefully, accepting our comments.

The ANC's response has been compiled by an experienced group of members, as part of a working group with the Institute of Acoustics.

The focus of the ANC's response is on the policies that relate to the management of noise and vibration. However, some other comments have been provided where we feel that there is a lack of clarity.

The main comments from the ANC

The ANC fully understands and supports the Government's desire for growth and to remove blockages in the planning system. To underpin that desire, it is important that the noise management policy within the planning system is coherent and consistent, not just within the NPPF, but consistent with the noise management policies found across the wider Government. Having come into effect under the last Labour administration in 2010, the Noise Policy Statement for England ('NPSE') provides that coherence on noise management.

The NPSE provides the basis for consistent noise management policy across all areas of Government activity including planning, energy, transportation, minerals and entertainment.

The NPSE's overarching aims are to avoid significant adverse effects on health and quality of life, to mitigate and minimise adverse effects on health and quality of life, and where possible, contribute to the improvement of health and quality of life, all within the context of Government policy on sustainable development

The fundamental thrust of the NPSE is that the management of noise must not be considered in isolation but that the social and economic value to society of proposals must be taken into account, with any adverse noise impacts being effectively managed in that context.

The principles of the NPSE can be found in the National Policy Statements for Nationally Significant Infrastructure Projects and in the policies relating to transportation noise management, minerals and entertainment.

The draft NPPF is only partially consistent with the NPSE, as it diverges in the specific words used, with some of the NPSE's overarching aims omitted.

It is our opinion that if these inconsistencies are left uncorrected, the Government's desire to bring "laser like focus on delivery" will inevitably be caught up with lengthy and costly legal battles as the inconsistencies between the NPPF and the rest of Government policy play out in examinations and planning inquiries

The changes that we seek are not radical, nor lengthy – they will require only a few words to be amended in a handful of policies, to provide an approach to noise matters that is consistent across all Government policy. We consider it to be in everyone's interests for the NPPF to be consistent with the NPSE, as it has been up until now, and to maintain the current coherence across Government noise management policy.

If officials would like to meet with the ANC to understand further our comments and suggested drafting amendments, we would be delighted to attend such a meeting either in person or online.

Responses submitted by ANC

Q.1 (p.11): Do you have any views on how statutory National Development Management Policies could be introduced in the most effective manner, should a future decision be made to progress these?

Response: Not at this time. However, should the Government decide to progress with National Development Management Policies, our view is that the manner in which this is done should be consulted upon.

Q.2 (p.13): Do you agree with the new format and structure of the draft Framework which comprises separate plan-making policies and national decision-making policies?

Response: Partly agree

The ANC agrees in principle to the changes to the structure of the Framework to improve its clarity, usability, and consistency.

It is made clear in paragraph 8 that thematic plan-making policies should not be used when making decisions. The ANC believe that the inverse should also be made clear, i.e. thematic decision-making policies should not be used when making plans.

Similarly, there is no clear statement in paragraphs 6 or 7 that the plan-making polices should not be used when making decisions, and vice versa. This clarification could be achieved with the following amendments (new text shown in "quote marks"):

> 6. The plan-making policies should be read as a whole (including relevant footnotes and annexes), and applied in a way which is appropriate to the type of plan being produced, the area which it covers and the period it is intended to cover. Reflecting this, some of the plan-making policies indicate actions which should be taken at the most appropriate level, which recognises that plan-making arrangements will vary across the country (for example in the geographic scale of spatial development strategies and local plans). "Plan-making policies should not be used when making decisions on development proposals."
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> 7. The national decision-making policies should also be read as a whole (including relevant footnotes and annexes). Some of these policies indicate how much weight the government would expect a particular consideration to be given, including cases where it is appropriate to give substantial weight to certain benefits, and the limited circumstances in which it is expected that permission would be refused. "Decision-making policies should not be used when making plans."

8. The thematic chapters contain both plan-making policies and national decision-making policies so that the approach to particular topics can be seen in the round. However, the plan-making policies should not be used when making decisions on development proposals "and vice versa".

Q.7, (p.20) Do you agree that alterations should be made to spatial development strategies at least every 5 years to reflect any changes to housing requirements for the local planning authorities in the strategy area?

Response: Strongly agree

The proposal to alter or replace spatial development strategies at least every five years aligns with the statutory review cycle for noise mapping and action plans under the Environmental Noise (England) Regulations 2006, as amended. Having this frequency of review will mean that the Government's sustainable development objectives are underpinned by the most recent evidence on health, quality of life and wellbeing effects of noise and vibration, and the health benefits of positive soundscapes.

Chapter 2: Plan-making policies

PM6: General principles for Plan-making

Q.11) Do you agree with the principles set out in policy PM6(1c), including its provisions for preventing duplication of national decision-making policies?

Response: Partly agree

The ANC agrees in principle to the changes to the structure of the Framework to improve its clarity, usability, and consistency, however the ANC feels that PM6(1)(e) should be amended as set out below (new text shown in "quote marks") (Formatting does not allow footnotes to be shown as superscript):

1. All plan-makers should, in preparing plans:

    e. Use environmental assessment to inform the preparation of plans, where legally required[12], "including making use of Soundscape concepts where appropriate to assist in identifying the optimum site for a particular type of development[XX]"; and,

"[XX] – The Science of Soundscapes - summary of the evidence base from the UK acoustics community - P. Rogers et al Proceedings of the Institute of Acoustics Vol 45, Pt 3 2023"

PM8: Evidence for plan-making

Q.13) Do you agree with the approach to the preparation of plan evidence set out in policy PM8?

Response: Strongly disagree

The ANC disagrees with the sentiment in PM8(2)(e). Plan makers should not be prevented from preparing new or additional evidence after a plan has been submitted for examination on their own initiative. This will enable relevant evidence that could have a material bearing on the deliberations of the appointed Inspector or examiner to be included.

There seems to be a presumption that appointed Inspectors or examiners will be aware of the existence of new relevant evidence, which the ANC believes may not be the case.

Proposed change:

Delete PM8(2)(e).

DM2: Information Requirements

Q.22) Do you agree with the policy DM2 on information requirements for planning applications?

Response: Strongly disagree

Summary: The reason the ANC strongly disagrees is because the summary of national decision-making policies in draft NPPF Annex C excludes any reference to those policies relating to environmental protection. Proposed change for Annex C – focussing on noise; other environmental topics, such as air quality, should also be covered as appropriate.

Suggested additional, new row for Annex C:

Policy theme:

Environmental effects

National decision-making policy:

P3: Living conditions and pollution

P4: Impact of development on existing activities (where relevant)

Information requirement:

Noise impact assessment. Identification of any significant adverse noise impacts and any adverse noise impacts, and proposed mitigation to comply with overarching national policy.

Other relevant environmental topics to be included as required.

DM3: Determining Development Proposals

Q24 Do you agree with the principles set out in DM3?

Response: Strongly disagree

The reason for this view is that it is essential that planning authorities consult with their local environmental health practitioners so that their expertise can be used to check that the development proposals have properly assessed the potential environmental impacts, such as noise. Our proposed change is to DM3(1)(d) only (proposed deletions shown in [square brackets]):

> DM3
>
> 1. When considering development proposals, local planning authorities should:
>
> > d. Consult statutory [~~or internal~~] consultees only where it is necessary to do so. Decisions on development proposals should not be delayed in order to secure advice from a statutory [~~or internal~~] consultee beyond their statutory deadlines unless there is insufficient information to make the decision or more detailed advice may enable an approval rather than a refusal;

Policy DM6 Use of planning conditions and obligations

Q29 Do you agree with the approach for planning conditions and obligations set out in policy DM6, especially the use of model conditions and obligations?

Response: Strongly disagree

DM6(1) sets out tests for planning conditions, which largely repeat those that have been in existence for 30 years, and found to be effective. However, in articulating the tests in DM6(1), the tests of 'precision' and 'enforceability' have been combined into a single test that has a slightly different meaning than at present.

As written, Policy DM6(1)(c) requires conditions to be sufficiently precise so they can be enforced. But in noise management, it is possible to have a precise condition that is unenforceable, therefore enforceability needs to be a separate requirement, as is the case at the moment.

Our suggested change to DM6(1) is (new text shown in "quote marks" and proposed deletions shown in [square brackets]):

DM6(1)

1. Planning conditions should only be attached to planning permissions and other associated consents for development where they are:

c. Sufficiently precise to make them capable of being "met" [~~complied with and enforced~~];
"d. Enforceable;" and
"e." Reasonable in all other respects.

The ANC believe there is a lack of clarity in DM6(4) where the words 'unacceptable impacts' are used instead of 'acceptable in planning terms'. We feel our proposed change makes DM6(4) consistent with text elsewhere in the proposed NPPF, for example in Policy DM1(1)(b)(iii):

DM6(4)

Planning obligations should only be used "where necessary to make the development acceptable in planning terms; are directly related to the development; and are fairly and reasonably related in scale and kind to the development" [~~it is not possible to address potential unacceptable impacts through a planning condition~~]. Where national model planning obligations are relevant to the development, they should be used unless a different planning obligation is more appropriate.

HO4 Land for large scale residential and mixed-use development

Q55 Do you agree the plan-making requirements, for both local plans and spatial development strategies, in relation to large scale residential and mixed-use development are sufficiently clear?

Response: Partly disagree

There is a potential lack of clarity in the current drafting. When determining potential locations for large scale residential and mixed-use development, it is essential that consideration is given to the potential environmental impacts on people living in the new development and from the development on those living nearby. This would avoid sites from being identified where it is not reasonably practicable to mitigate the environmental effects such that national policies are met. Our proposed change is to HO4(1)(c) only (new text shown in "quote marks")"

HO4

1. The development plan should identify suitable locations for large scale development, such as new settlements, new urban quarters or significant extensions to existing settlements. These locations should:

c. Address strategic environmental opportunities and safeguards, including those set out in Local Nature Recovery Strategies "and including complying with relevant aspects of policy P1".

HO12 Traveller Sites

Q.78 Do you agree the proposals to set out requirements for traveller sites at policy HO12 adequately capture relevant aspects from Planning Policy for Traveller Sites, whilst ensuring fair treatment for traveller sites in the planning system?

Response: Strongly disagree

Q79: Provide your reasons why:

Our strong disagreement relates to the drafting of HO12(1)(c). For clarity and consistency, reference should also be made to avoiding significant adverse impacts from noise as well as minimising adverse impacts. We have included reference to 'quality of life' to maintain consistency with other noise management policies.

Our suggested change is to HO12(1)(c) only (new text shown in "quote marks" and proposed deletions shown in [square brackets]):

1. Development proposals for traveller sites should be located and designed so that they:

c. Promote opportunities for healthy lifestyles, such as by providing adequate landscaping and play areas for children,

"avoiding significant adverse impacts" and minimising adverse impacts from local environmental factors (such as noise and air quality) on the health"," [~~and]~~ wellbeing", and quality of life" of travellers that may locate there; and

TI1: Proposals for telecommunications infrastructure
TI2: Telecommunications Infrastructure – Supporting Information

(Polices CO1 and CO2 in draft NPPF)

Q94 Do you agree the requirements for minimising visual impact and reusing existing structures are practical for applicants and local planning authorities?

Response: Partly disagree

It is important to recognise that telecommunications infrastructure can cause noise impacts, such as from cooling fans on base stations, fibre exchanges and data cabinets, therefore CO1(1)(b) should be amended as follows (new text shown in "quote marks"):

CO1

1. Development proposals for the expansion or upgrading of electronic telecommunications networks, including (but not limited to) next generation wireless technologies (such as standalone 5G), gigabit-capable broadband connections and supporting infrastructure such as fibre exchanges, should:

b. Be sited and designed to minimise the visual "and noise" impact"s" of the proposals, especially in situations where a new site or structure is proposed;

W3: Renewable and low carbon energy development and electricity network infrastructure

Q98 Do you agree with the proposed approach to supporting development for renewable and low carbon development and electricity network infrastructure in policy W3?

Response: Partly disagree

For clarity, the ANC believes that it needs to be made clear that the word 'emissions' in W3(1)(c) means greenhouse gas emissions, and not other forms of emission such as noise. Such developments could have an adverse noise impact

on those living nearby. Our proposed change is to W3(1)(c) only (new text shown in "quote marks")::

W3

1. In considering proposals for renewable and low-carbon energy development and electricity network infrastructure, substantial weight should be given to:

c The contribution that small-scale and community-led renewable and low carbon energy projects can make to reducing "greenhouse gas" emissions, along with their associated economic and social benefits

W4: Water infrastructure

Question 99: Do you agree with the proposed approach to supporting development for water infrastructure in policy W4?

Response: Partly disagree

For clarity, it is important that appropriate consideration is given to other environmental effects when addressing water infrastructure. Our proposed amendment is a new subclause in W4(1) (new text shown in "quote marks"):

W4

1. In considering proposals for water supply, drainage and wastewater development, substantial weight should be given to:

"c. mitigating any other environmental adverse impacts that may occur as required by other policies."

M4: Considering the Impacts of Mineral Development.

Q 107 Do you agree policy M4 sufficiently addresses the impacts of mineral development, noting that other national decision-making policies will also apply?

Response: Partly disagree

Q 108 – state your reasons

For clarity, it is important that minerals processing activities are explicitly mentioned as they can cause adverse noise or vibration impacts. In addition, noise limits should apply not just to noise-sensitive properties, but to noise-sensitive receptors, as appropriate.

Our proposed change is to M4(1)(b) only (new text shown in "quote marks" and proposed deletions shown in [square brackets]):

M4

1. Proposals for mineral development should:

b. Ensure any unavoidable noise, dust and particle emissions and any vibrations from blasting "and minerals processing activities" will be controlled, mitigated or removed at source, and that appropriate noise limits are established for extraction in proximity to noise sensitive "receptors" [~~properties~~] (recognising that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction); and

TR7: Marine ports, airports and other aviation facilities

Q.156 Do you agree the proposed text in policy TR7 provide an effective basis for assessing proposals for marine ports, airports and general aviation facilities?

Response: Strongly disagree

The ANC strongly disagrees with the drafting of TR7(1)(d). Simply requiring that the proposals should "have an acceptable environmental effect" is ambiguous and is inconsistent with the overarching Government policy on noise management, as set out in the Noise Policy Statement for England, current aviation noise management policy, and National Policy Statements on Ports.

Our proposed change is to TR7(1)(d) only (new text shown in "quote marks" and proposed deletions shown in [square brackets]) (Formatting does not allow footnotes to be shown as superscript):

TR7.

1. Development proposals involving the provision, expansion or alteration of port, airport, advanced air mobility and aviation facilities (and development ancillary to them) should:

d. "avoid noise giving rise to significant observed adverse effects on health and quality of life(1), mitigate and minimise adverse noise effects on health and quality of life(1), and have" [~~Have~~] an acceptable environmental effect in terms of [~~noise,~~] air quality, carbon emissions, the transport network, landscape, visual and marine impacts.

"(1) – See the Noise Policy Statement for England, including the explanatory note (Department for Environment, Food & Rural Affairs, 2010)."

P1: Planning for clean and safe spaces

Q.165 Do you agree with policy P1 as a basis for identifying and addressing relevant risks when preparing plans?

Response: Strongly disagree

Summary:

The proposed wording of Policy P1 is inconsistent with current Government noise management policy, as set out in:

- the Noise Policy Statement for England;
- National Policy Statements for Nationally Significant Infrastructure Projects, including Energy, National Networks, Airports, Ports, and Waste Water; and
- Minerals.

Retaining the currently-proposed NPPF drafting will, in the view of the ANC, lead to inevitable additional delay and legal challenge to the Development Plan process.

Consistency with the Government's current noise management policy can be achieved with the following amendments to P1(1)(c) only (new text shown in "quote marks" and proposed deletions shown in [square brackets]) (Formatting does not allow footnotes to be shown as superscript):

P1 (1)

c. "avoid significant observed adverse effects from noise on health and quality of life(1), mitigate and minimise adverse effects from noise on health and quality of life(1), and consider" [~~Consider~~] any wider opportunities to reduce air, water, soil and noise pollution, and contribute to compliance with national and local environmental targets and objectives, through the spatial strategy and policies for specific parts of the plan area (such as by identifying opportunities for strategic nature-based solutions);

"(1) – See the Noise Policy Statement for England, including the explanatory note (Department for Environment, Food & Rural Affairs, 2010)."

In connection with policies P1(1)(b)(ii) and P1(1)(b)(iii), it is assumed that not causing or not being exposed to unacceptable levels of pollution has the same meaning as 'preventing' such unacceptable levels from occurring. The text in paragraph 187(e) of the current NPPF is arguably clearer on this point, and the word 'prevent' also appears in this context in the Government's Overarching National Policy Statement policy on Energy (paragraph 5.11.15 of NPS EN-1).

There is no definition of the word 'pollution' in the draft NPPF. For clarity, it is suggested that the following definition is included in the Glossary:

"Pollution shall include, but not be limited to, noise emissions, emissions to air and water, odour, and ground contaminants, unless the context states otherwise."

P3: Living conditions and pollution

Q.167 Do you agree with the criteria set out in proposed policy P3 as a basis for securing acceptable living conditions and managing pollution?

Response: Strongly disagree

Reasons

The proposed wording of Policy P3 is inconsistent with current Government noise management policy, as set out in:

- the Noise Policy Statement for England;
- National Policy Statements for Nationally Significant Infrastructure Projects, including Energy, National Networks, Airports, Ports, and Waste Water; and
- Minerals.

Retaining the currently-proposed NPPF drafting will, in the view of the ANC, lead to inevitable additional delay and legal challenge to the Development Plan process.

Notwithstanding these concerns, the ANC supports both the seeking of opportunities to mitigate and minimise the adverse effects of noise, and also the focus on those who might be particularly vulnerable to the effects of noise in policy P3(2)(a).

Policy P3 can be made consistent with the Government's current noise management policy can be achieved with the following amendments (new text shown in "quote marks" and proposed deletions shown in [square brackets]) (Formatting does not allow footnotes to be shown as superscript):

P3 (1)

b. Provide healthy living conditions for occupiers and users in terms of having adequate access to light and "preventing" [~~avoiding~~] exposure to levels of air, noise, artificial light or other sources of pollution which could have an unacceptable adverse effect on health and wellbeing "or quality of life";

We have added the words 'quality of life' to reinforce consistency with other current noise management policies.

With regard to P3(1)(c), no change is proposed on the basis that 'not give rise to' has the same meaning as 'prevent'. The text in paragraph 187(e) of the current NPPF is arguably clearer on this point, and the word 'prevent' also appears in this context in the Government's Overarching National Policy Statement policy on Energy (paragraph 5.11.15 of NPS EN-1).

P3 (2)

a. Mitigate the effect of existing pollution on the site where necessary to secure [~~acceptable~~] conditions for occupiers and users "that are not unacceptable" and, where possible, take opportunities to "mitigate and minimise" [~~reduce~~] pollution affecting the wider area (such as through traffic and travel management or improved external lighting). In doing so consideration should be given to the cumulative effect of pollution from multiple sources, and to whether the intended occupiers or users may be particularly vulnerable to its effects, such as children and older people;

c. "Avoid noise from giving rise to" [~~Not result in levels of noise exposure which would have a~~] significant observed adverse effects "on health and quality of life(1), and mitigate and minimise adverse effects on health and quality of life(1)". Maintain the character of tranquil areas (those that have remained relatively undisturbed by noise from human sources and are prized for their recreational and amenity value for this reason);

"(1) – See the Noise Policy Statement for England, including the explanatory note (Department for Environment, Food & Rural Affairs, 2010)."

With regard to policy P3(3), the ANC is concerned that there may be an inconsistency with policy DM7(1). Clearly it is appropriate for relevant other regimes for the control of pollution to be relied upon rather than duplicating controls within the planning process. But it must be made clear that these other regimes may not completely address all forms of noise impact that could occur.

3. In applying this policy, it should [~~not~~] be assumed that other regimes for the control of pollution "are operated effectively but" will "not" necessarily "address all adverse impacts" [~~eliminate emissions completely~~].

There is no definition of the word 'pollution' in the draft NPPF. For clarity, it is suggested that the following definition is included in the Glossary:

"Pollution shall include, but not be limited to, noise emissions, emissions to air and water, odour, and ground contaminants, unless the context states otherwise."

P4: Conserving and Enhancing the Natural Environment

Q.168 Do you agree policy P4 makes sufficiently clear how decision-makers should apply the agent of change principle?

Response: Strongly disagree

As drafted, the text lacks clarity and is inconsistent with current Government noise management policy. The following changes will remove those inconsistencies and lack of clarity (new text shown in "quote marks" and proposed deletions shown in [square brackets]).

There is a minor drafting error, where P4(4) directly follows P4(2); there is no P4(3).

2. Where the "consented" operation of an existing activity could have a significant adverse effect on a proposed new development in its vicinity, development proposals should:

b. Be able to demonstrate that suitable mitigation can be provided before the development has begun to be occupied, "to avoid a significant adverse effect from occurring" [~~if the development is to be acceptable~~]. Planning conditions or obligations should be used to secure agreed mitigation measures.

Q179 Do you agree that the proposed approach to planning for the natural environment in policy N1, including the proposed approach to biodiversity net gain, strikes the right balance between consistency, viability, deliverability, and supporting nature recovery?

Response: Partly disagree

The ANC supports the policy to identify opportunities for the conservation, enhancement and recovery of landscapes but feels that the important role that soundscape can have should also be included.

Our proposed change to N1(1)(b) will achieve this aim (new text shown in "quote marks"):

N1: Identifying environmental opportunities and safeguards

1. Development plans should safeguard and enhance the natural environment, and reflect the wider benefits from natural capital and ecosystem services, by using Local Nature Recovery Strategies, Protected Landscape Management Plans, River Basin Management Plans, National Forest Strategies, Community Forest Plans and other relevant evidence at the most appropriate level to:

b. Identify opportunities for the conservation, enhancement and recovery of landscapes, sensitive waterbodies, habitats and species of principal importance, including through habitat restoration, the use of nature-based solutions, "enhancing the soundscape," and the creation and strengthening of ecological networks that are more resilient to current and future pressures (including opportunities which exist at a catchment or landscape scale across plan boundaries)