



Eich cyf/Your ref  
Ein cyf/Our ref CL-01-15

All Local Authority Cabinet Members with  
Responsibility for Planning

CC Chief Executives  
Chief Planning Officers

25 November 2015

Dear Colleague

### **CL-01-15 Updates to Tan 11 Noise - Noise Action Plan (2013-18) Commitments**

The need to consider noise when planning a new development, be it a noise-generating or a noise-sensitive development, is covered in *Planning Policy Wales* and *Technical Advice Note (TAN) 11: Noise (1997)*.

Whilst the considerations to be given to noise remain unchanged, supporting legislation and underpinning British Standards have been revised and amended. The primary purpose of this clarification letter is to factually update *TAN11: Noise* in light of these changes with particular reference to the environmental permitting regime and the publication of the revised *British Standard BS 4142:2014, Methods for rating and assessing industrial and commercial sound* (October 2014).

At the same time the opportunity is being taken to draw attention to certain elements of the advice, which has been in place since 1997, in relation to 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.

Attention is drawn to paragraph 10 of TAN 11, particularly with regard to transport-related noise-generating activities. The possible incompatibilities of proposals for new noise-sensitive development with existing activities should be considered and account taken of the level of current noise exposure and any foreseeable future increase. Noise-sensitive development should not normally be permitted in areas which are or are expected to become subject to high levels of noise. Annex A of TAN11 provides a table of noise exposure categories for dwellings. This should assist Local Planning Authorities in their

consideration of planning applications for residential development near transport-related noise-generating activities.

In paragraph 4, TAN11 emphasises the importance of liaison with environmental health departments when considering noise and noise-generating developments. Similarly, early consultation with applicants about the possible measures to control the source of, or limit exposure to, noise is encouraged in paragraph 12.

In paragraphs 5 and 6, TAN11 expresses the importance of development plans in setting out any specific as well as general noise-related policies and where it is difficult to separate noise-sensitive developments from noisy activities plans should contain an indication of any general policies the Local Planning Authority proposes to apply through conditions or planning obligations.

In paragraph 9, TAN11 states that noise from industrial development should be considered in relation to the character and the level of noise. Advice on assessing noise and factors to be considered are set out in Annex B of TAN11 and particular attention is drawn to the new paragraph B17 detailed in the appendices to this letter. Authorities should take into account the fact that the background sound levels in some areas are very low, and the introduction of noise-generating activities into such areas may be especially disruptive.

Appendix 1 of this letter sets out the changes to references mentioned throughout TAN11. Appendix 2 sets out changes to Annexes B, E and F in TAN11 to reflect changes in noise regulation and updated British Standards.

Finally, in 2013 I endorsed the Institute of Acoustics *Good practice guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise*. Authorities processing wind turbine applications should also note that six supplementary guidance notes have been issued to support this guide (<http://www.ioa.org.uk/publications/good-practice-guide>). The Department of Energy and Climate Change have commenced further work on amplitude modulation and any Welsh Government position on this work would be considered at the appropriate time.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Carl Sargeant'.

**Carl Sargeant AC / AM**  
Y Gweinidog Cyfoeth Naturiol  
Minister for Natural Resources

## **APPENDIX 1: Updated references throughout TAN 11**

<b>Paragraph in TAN11</b>	<b>Original reference</b>	<b>Replaced with / new inclusion</b>
<b>2</b>	PPW 1996, paras 43-45	PPW 2014, paras 13.13-13.15
<b>12</b>	Welsh Office Circular 35/95 "The use of conditions in planning permissions"	Welsh Government Circular 016/2014 "The use of planning conditions for development management"
<b>Annex A, A6</b>	BS 8233:1987	BS 8233:2014
<b>Annex A, A7</b>		Directive 2002/49/EC
<b>Annex B, B1</b>	BS 6472:1992	BS 6472:2008
<b>Annex B, B4</b>	BS 6472:1992	BS 6472:2008
<b>Annex B, B17</b>	BS 4142:1990	BS 4142:2014
<b>Annex B, B17</b>	BS 8233:1987	BS 8233:2014
<b>Annex B, B17</b>		Environmental Permitting (England and Wales) Regulations 2010, as amended
<b>Annex B, B19</b>	TAN 8 Renewable Energy (1996), paras A28-A38	TAN 8: Planning for Renewable Energy (2005), paras 2.14-2.18
<b>Annex B, B20</b>	BS 5228 Parts 1-4	BS 5228-1:2009+A1:2014
<b>Annex B, B23</b>	BS 5228 Part 1: 1984	BS 5228-1:2009+A1:2014
<b>Annex C, C1</b>	Welsh Office Circular 35/95 "The use of conditions in planning permissions"	Welsh Government Circular 016/2014 "The use of planning conditions for development management"
<b>Annex D, D2</b>	BS 4142:1990	BS 4142:2014
<b>Annex D, D9</b>	BS 7445:1991	BS 7445-1:2003

### **References to be deleted**

**TAN5 Nature Conservation and Planning, 1996**

**TAN8 Renewable Energy, 1996**

**Noise Review Working Party, 1990, HMSO**

## **APPENDIX 2: Amended paragraphs in Annexes B, E and F of TAN 11**

### **Annex B: THE ASSESSMENT OF NOISE FROM DIFFERENT SOURCES**

#### **Noise from industrial and commercial developments**

In light of the introduction of the environmental permitting regime and the updating of British Standards, the existing paragraph B17 should be deleted and replaced with the following:

B17. The likelihood of adverse impacts arising from noise of an industrial and/or commercial nature can be assessed, where the application of BS 4142:2014 is appropriate, using the guidance set out in that standard. Tonal or impulsive characteristics of the noise are likely to increase the scope for adverse effects and this is taken into account by the "rating level" defined in BS 4142. This rating level should be used when stipulating the level of noise that can be permitted. The significance of sound of an industrial and/or commercial nature typically depends upon both the margin by which the rating level of the specific sound source exceeds the background sound level and also the context in which the sound occurs. BS 4142:2014 states that as an initial estimate: "A difference of around +10 dB or more is likely to be an indication of a significant adverse impact, depending on the context. A difference of around +5 dB is likely to be an indication of an adverse impact, depending on the context." However, this initial estimate of the impact may need to be modified due to the context, and determining whether this is the case should include consideration of absolute sound levels, the character and level of the residual sound compared to the specific sound, the sensitivity of the receptor, and good building design. Since background sound levels vary throughout a 24-hour period it will usually be necessary to assess the acceptability of sound levels for separate periods (e.g. day and night) chosen to suit the hours of operation of the proposed development. Similar considerations apply to developments that will emit significant noise at the weekend as well as during the week. In addition, general guidance on acceptable sound levels within buildings can be found in BS 8233:2014. Noise conditions can often be attached to environmental permits issued under the Environmental Permitting (England and Wales) Regulations 2010 (as amended). This will be particularly relevant when dealing with sites where the operator is working with the benefit of a planning permission not subject to a noise condition. Local planning authorities and environmental permitting authorities should consult closely at an early stage when considering the need for specific noise controls to be imposed by appropriate conditions in any planning permission or in the subsequent environmental permit.

#### **Noise from landfill waste disposal sites**

The existing paragraph B22 should be deleted. Waste activities are now regulated under the environmental permitting regime.

### **Annex E: INFORMATION ON OTHER NOISE CONTROL REGIMES**

#### **The Environmental Protection Act 1990**

To add to the existing paragraph E3 the following text:

Additional reactive noise controls are now available to authorities under the Anti-social Behaviour, Crime and Policing Act 2014. These include the "civil injunction" and the "community protection notice".

#### **The Control of Pollution Act 1974**

To delete the existing paragraph E5 and replace with the following:

E5. Part III of the Control of Pollution Act 1974 ("the 1974 Act") was largely repealed in England and Wales by the Environmental Protection Act 1990. However, those sections that are extant give local authorities powers to control noise from construction sites, and noise from loudspeakers in streets.

## Codes of Practice

To delete the 4 codes of practice listed in paragraph E6 and replace with the following text:

Information on the Codes of Practice currently in force in Wales may be found on the Welsh Government website at <http://gov.wales/topics/environmentcountryside/epq/noiseandnuisance/codes-of-practice/?lang=en> .

## By-laws and public spaces protection orders

To add to the existing paragraph E7 the following text:

In addition, the Anti-social Behaviour, Crime and Policing Act 2014 introduced “public spaces protection orders” (PSPOs). PSPOs are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community’s quality of life, by imposing conditions on the use of that area that apply to everyone. They are designed to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

## European Union Directives and Regulations

To delete the existing paragraph E8 and replace with the following:

E8. The European Union has issued directives and regulations focused on limiting noise from products, particularly modes of transport, construction equipment and other specific products such as lawnmowers and household appliances, as well as requiring the use of “best available techniques” to minimise noise from major industry. The major directives and regulations (which should all be read “as amended” where such amendments have been made) are as follows:-

74/151	<i>Directive relating to certain parts and characteristics of wheeled agricultural or forestry tractors.</i>
78/1015	<i>Directive on the permissible sound level and exhaust system of motorcycles.</i>
79/113	<i>Directive relating to the determination of the noise emission of construction plant and equipment.</i>
80/51	<i>Directive on the limitation of noise from subsonic aircraft.</i>
84/532	<i>Directive on the approximation of the laws of the Member States relating to common provisions for construction plant and equipment.</i>
84/538	<i>Directive on the approximation of the laws of the Member States relating to the permissible sound power level of lawnmowers.</i>
86/594	<i>Directive on airborne noise emitted by household appliances.</i>
86/662	<i>Directive on limitation of noise from hydraulic excavators, rope-operated excavators, dozers, loaders and excavator loaders.</i>

89/629	<i>Directive on the limitation of noise emission from civil subsonic jet aeroplanes.</i>
92/14	<i>Directive on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988).</i>
92/23	<i>Directive relating to tyres for motor vehicles and their trailers and to their fitting.</i>
96/48	<i>Directive on the interoperability of the trans-European high-speed rail system.</i>
97/24	<i>Directive on certain components and characteristics of two or three-wheel motor vehicles.</i>
2000/14	<i>Directive on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors.</i>
2001/16	<i>Directive on the interoperability of the trans-European conventional rail system.</i>
2002/30	<i>Directive on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports.</i>
2002/49	<i>Directive relating to the assessment and management of environmental noise.</i>
2003/10	<i>Directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise).</i>
2006/93	<i>Directive on the regulation of the operation of aeroplanes covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988).</i>
2007/46	<i>Directive establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles.</i>
1222/2009	<i>Regulation on the labelling of tyres with respect to fuel efficiency and other essential parameters.</i>

2010/75	<i>Directive on industrial emissions (integrated pollution prevention and control).</i>
2013/53	<i>Directive on recreational craft and personal watercraft.</i>
540/2014	<i>Regulation on the sound level of motor vehicles and of replacement silencing systems.</i>

## **Building Regulations**

To delete paragraph E9 and replace with the following text:

E9. The Building Regulations 2010 impose requirements for the protection against sound between dwellings or flats, other parts of the building and adjoining buildings. Approved Document E (Resistance to the passage of sound) gives guidance on the design and construction and also the practical methods of how the protection of sound requirements can be achieved.

To delete the first sentence of paragraph E10 and replace with the following text:

E10. Approved Document E of the Building Regulations 2010 also imposes requirements for the protection against sound between converted flats or dwellings by including provisions that are as close to new build standards as is practical.

## **Noise at work**

To delete the existing paragraph E12 and replace with the following:

E12. The Control of Noise at Work Regulations 2005, which are enforced by inspectors of the Health and Safety Executive (HSE) or local authorities depending on the nature of the premises, require employers to take a number of steps to protect employees from exposure to excessive noise.

## **Aircraft**

To delete the existing paragraph E13 and replace with the following:

E13. The manner in which aircraft may be flown is specified in Section 76 of the Civil Aviation Act 1982 and the Rules of the Air Regulations 2015. Under Section 76 of the Civil Aviation Act aircraft are exempt from action in respect of trespass or nuisance, including noise nuisance, as long as they comply with the provisions of any Air Navigation Order.

## **Annex F**

The existing Annex F should be deleted and replaced with the following:

### **STATUTORY INSTRUMENTS (all be read “as amended” where such amendments have been made)**

The Noise Insulation Regulations 1975	<i>(SI 1975: 1763)</i>
The Road Vehicles (Construction and Use) Regulations 1986	<i>(SI 1986: 1078)</i>
The Town and Country Planning (Use Classes) Order 1987	<i>(SI 1987: 764)</i>
The Town and Country Planning (Assessment of Environmental	<i>(SI 1988: 1199)</i>

Effects) Regulations 1988	
The Town and Country Planning (General Permitted Development) Order 1995	<i>(SI 1995: 418)</i>
The Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996	<i>(SI 1996: 428)</i>
The Education (School Premises) Regulations 1999	<i>(SI 1999: 2)</i>
The Aeroplane Noise Regulations 1999	<i>(SI 1999: 1452)</i>
The Highways Noise Payments (Movable Homes) (Wales) Regulations 2001	<i>(SI 2001: 604)</i>
The Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001	<i>(SI 2001: 3958)</i>
The Aerodromes (Noise Restrictions) (Rules and Procedures) Regulations 2003	<i>(SI 2003: 1742)</i>
The Control of Noise at Work Regulations 2005	<i>(SI 2005: 1643)</i>
The Environmental Noise (Wales) Regulations 2006	<i>(SI 2006: 2629)</i>
The Environmental Permitting (England and Wales) Regulations 2010	<i>(SI 2010: 675)</i>
The Building Regulations 2010	<i>(SI 2010: 2214)</i>
The Rules of the Air Regulations 2015	<i>(SI 2015: 840)</i>

## **BRITISH STANDARDS**

BS 4142:2014, Methods for rating and assessing industrial and commercial sound.

BS 5228-1:2009+A1:2014, Code of practice for noise and vibration control on construction and open sites. Noise.

BS 5228-2:2009+A1:2014, Code of practice for noise and vibration control on construction and open sites. Vibration.

BS 5821-3:1984, Methods for rating the sound insulation in buildings and of building elements. Method for rating the airborne sound insulation of façade elements and façades

BS 6472:2008-1, Guide to evaluation of human exposure to vibration in buildings. Vibration sources other than blasting.

BS 6472:2008-2, Guide to evaluation of human exposure to vibration in buildings. Blast-induced vibration.

BS 7445-1:2003, Description and measurement of environmental noise. Guide to quantities and procedures.

BS 7445-2:1991, Description and measurement of environmental noise. Guide to the acquisition of

data pertinent to land use.

BS 7445-3:1991, Description and measurement of environmental noise. Guide to application to noise limits.

BS 8233:2014, Guidance on sound insulation and noise reduction for buildings.

BS EN ISO 717-1:2013, Acoustics. Rating of sound insulation in buildings and of building elements. Airborne sound insulation.

BS EN ISO 717-2:2013, Acoustics. Rating of sound insulation in buildings and of building elements. Impact sound insulation.