

**CONSULTATION ON DRAFT NOISE ACTION PLANS BY THE DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS (DEFRA)**

**To: Cabinet**

**Date: 20<sup>TH</sup> October 2009**

**From: Executive Director: Environment Services**

**Electoral division(s): All**

**Forward Plan ref: None**

**Key decision: No**

**Purpose: To draw the Cabinet's attention to a consultation on draft Noise Action Plans currently being undertaken by The Department for Environment, Food and Rural Affairs (DEFRA), which has potential implications for the County Council as a "noise generating authority" and consequently for finance and staffing resources, and the policy approach of the County Council.**

**Recommendation: It is recommended that Cabinet:**

- i) offers comments on DEFRA's consultation proposals; and**
- ii) delegates to the Cabinet Members for Highways and Access; Growth, Infrastructure and Strategic Planning; and Economy and the Environment in consultation with the Executive Director: Environment Services the authority to finalise the Council's response submission.**

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## **1. BACKGROUND**

- 1.1 The Government has transposed European Union (EU) directive 2002/49/EC relating to the Assessment and Management of Environmental Noise (the Environmental Noise Directive or “END”) into the Environmental Noise (England) Regulations 2006. To address the noise management requirements of this Regulation, the Secretary of State for the Environment Food and Rural Affairs has been designated as the Competent Authority and has devised the “draft Noise Action Plans”.
- 1.2 These Action Plans identify important areas in strategic noise maps, produced by DEFRA, and describe the process for what, if any, noise mitigation measures might be carried out in those areas in the context of sustainable development. The consultation seeks views on draft noise action plans for agglomerations (towns and cities) over 250,000 population, major roads (outside agglomerations), and railways (outside agglomerations). The Government recognises that it is necessary to manage and control external noise, as exposure to it can have direct and indirect health effects and also adversely affect quality of life. The action plan for agglomerations also describes a process proposed for identifying and managing “quiet areas” in order to preserve environmental noise quality where this is already good. Noise action plans for airports are not covered as regulations identify the relevant airport operator as the competent authority for producing these.
- 1.3 Currently, DEFRA is consulting widely with public bodies, on what is intended to be a rolling programme of noise management. This is a first phase of the development of the Action Plans. This consultation began on 15<sup>th</sup> July and finishes on the 4<sup>th</sup> November 2009. The Secretary of State intends to adopt the draft Noise Action Plans for implementation in 2010. A second phase will extend the consultation to areas with populations above 100,000, including Cambridge, in 2012.
- 1.4 The Directive applies to environmental noise to which humans are exposed, but excludes domestic activity, noise at workplaces, noise inside transport and military noise.

## **2. MAIN ISSUES**

- 2.1 Under these regulations, the responsibility for road traffic noise will rest with the relevant local highway authority and the Highways Agency (Department for Transport), as the Noise Generating or Noise Making Authorities.
- 2.2 The financial implications for individual local highway authorities are not clear, nor is it clear how the suggested national costs of these plans have been arrived at and how robust is their basis. The Government claim that to address noise amelioration for locations with thresholds more than 76 decibal level (dBL) (see paragraph 2.8) there will only be a one off cost (nationally) of £3.5 million, with annual costs (nationally) of £30k pa. These do not appear to be realistic sums and for this reason, the Council may wish to be robust in its response.

- 2.3 Three areas of uncertainty for the County Council are the implications for the County Major roads outside of the urban areas and in the second phase of the plan process, the implications for major roads in Cambridge and the impact of the designation of “quiet areas” within Cambridge.
- 2.4 There is an issue of principle and policy approach at stake here. Until now local highway authorities have had limited obligations in respect of noise generated by highway traffic. Under the Land Compensation Act 1973, they have had to compensate dwelling owners for loss of value or pay for noise insulation where a highway has been improved close to those dwellings. Also, as good practice local highway authorities have introduced low noise surfacing in sensitive areas at the time of re-surfacing and had regard to noise generation during improvement and construction work.
- 2.5 In practice, a local highway authority has few means of controlling the volume or nature of the traffic using its major roads, and has certainly not been liable for, nor has means of controlling the noise emitted by the vehicles on its major roads. Under these measures, local highway authorities are becoming responsible for the noise increases perhaps due to traffic growth and potentially even liable for noise insulation measures for dwellings built after the opening of new highways. Shire local highway authorities in many instances have no power to veto development onto their roads nor insist on adequate noise insulation.
- 2.6 Also, the latest guidance for the new Local Transport Plans (LTP3) requires local transport authorities, once the draft noise Action Plans are adopted in 2010, to integrate “where appropriate, them with their LTPs to ensure a coordinated and systematic approach to the management of transport noise”. Given the state of local authority budgets and the anticipated pressure on LTPs, there is likely to be little, if any, money to fulfil these new obligations.
- 2.7 An immediate issue that arises with these new obligations is the availability of skilled staff, and whether to manage the process in house or to externalise assessments. Given time no doubt consultants would train up staff to undertake this work. This matter will need to be addressed.
- 2.8 Important areas identified in DEFRA’s large scale noise maps include the Trunk Roads A1, A11, A14, A428, A47 and M11, which are the responsibility of the Highways Agency, and major County roads, the A10, A1123, A141, A1307, A505 and a length of the former A142 bypassed by the Fordham bypass. These are roads with locations where traffic noise is suggested to be in excess of 76dB for 10% of the 18hour day (6am to midnight) and carry more than six million vehicles per year.
- 2.9 The relevant highway authorities, classed as “noise making authorities” will be required to examine the various locations identified on the maps and form a view about what measures, if any might be taken in order to assist the management of environmental noise in the context of sustainable development at those locations.
- 2.10 DEFRA will also liaise with relevant local authorities (planning and environmental health departments) to enable those Councils to participate in this action planning process with the highway authorities.

- 2.11 The consultation documentation suggests action to mitigate noise might include for each location identified:
- Erecting noise barriers
  - Installing low noise road surfaces (but these can be less durable),
  - Local traffic management measures; or
  - Improving sound insulation.
- 2.12 It is suggested, in the consultation document, that there are four possible conclusions that the local highway authority might reach on possible measures. These are quoted as:
- “It is possible to be able to implement and there are financial resources immediately available to do so.
  - It is possible to be able to implement but there are no financial resources immediately available to do so
  - It is not possible to implement any action because there is no scope for doing so or there is some overriding technical issue that prevents implementation.
  - It is not possible to implement any action because there would be large adverse non-acoustic effects that could not be accommodated by the proposed measure.”

It is anticipated that DEFRA will liaise with relevant highway authorities to consult on the conclusions with the (other) local authorities and other stakeholders.

- 2.13 The Regulations state that any actions identified during this process are regarded as being part of the highway authority policy and need to be implemented.

#### “Quiet Areas”

- 2.14 The consultation also raises concerns regarding the identification of “quiet areas” in agglomerations and the criteria (size, location, noise thresholds) that may be used and the potential for conflicts where different authorities/organisations have responsibilities. Whilst District Councils could be responsible for identifying and managing quiet areas, the local highway authorities will be responsible for any adjacent traffic noise. Clear guidance will be required with regards to management of quiet areas and open space to ensure there are no overlaps or conflicts.
- 2.15 Local authorities will be expected to adopt policies to manage the local noise environment so as to protect these “Quiet Areas” and avoid increases in noise, which will include reviewing their approach to the management of these open spaces. Highway Authorities will need to consider whether any of their other proposed measures might cause conflict with these areas.
- 2.16 There are a number of concerns with this consultation and it is anticipated that the Council, in addition to commenting at the technical level, will wish to make strong representations about the financial impact. Building on this, a suggested framework for the County’s response to the consultation is

appended to this report. This can be developed in light of comments from Cabinet Members.

### **3. SIGNIFICANT IMPLICATIONS**

#### Resources and Performance

- 3.1 Although these regulations have been introduced with the best of intentions, there could be significant resource and performance implications from these measures. Officers have identified the following:

- Staffing costs of specialist staff to assess the local noise implications and potential mitigation measures
- Staffing costs to undertake the liaison and consultation required by these draft regulations,
- Capital and revenue resources deployed to address the ameliorative measures that may be needed.

However, it is not possible to quantify likely costs at this stage, but an assessment of likely costs will be needed for the internal budgetary provision and for inclusion in the LTP3 submission.

In terms of performance, new targets may be introduced and with regards to Best Practice, the process is being orchestrated by Central Government. The Noise Action Plans could impose an unreasonable financial burden on local Authorities at a time of severe restraint and cutbacks.

#### Statutory Requirements and Partnership Working

- 3.2 Under the Environmental Noise Directive, the County Council will become responsibility for traffic noise on its highways from 2010. Under the regulations, this responsibility will cover major roads across the County (i.e. those carrying more than six million vehicles per year), on such roads within the Cambridge Urban area from 2012 and responsible for traffic noise which affects "Quiet Areas" in Cambridge from 2012. This will involve working with DEFRA, Districts and other stakeholders.

#### Climate Change

- 3.3 There appear to be few direct implications for climate change or greenhouse gas emissions, but there could be some implications for the local environment including landscape, townscape and of course noise levels. In theory, the diversion of traffic from "important areas" may raise other environmental issues.

#### Access and Inclusion

- 3.4 There may be implications for the management of traffic on the highway network, and this may include the routing of HCVs and buses, but this again may raise other environmental and resource issues.

#### Engagement and consultation

- 3.5 The regulations require consultations on mitigation proposals with the District Councils and stakeholders. At this stage it is not clear how wide ranging this

will be, but is likely to involve most of the District Councils and other interested parties

Source Documents	Location
<p>The DEFRA Website gives full documentation on this consultation and the link is</p> <p><a href="http://www.defra.gov.uk/corporate/consult/noise-action-plan/index.htm">http://www.defra.gov.uk/corporate/consult/noise-action-plan/index.htm</a></p> <p>(Members are likely to find maps Nos. 138, 139, 152, 153 &amp; 163 of County interest).</p>	<p>DEFRA Website.</p>

**SUGGESTED DRAFT COMMENTS ON THIS CONSULTATION ARE:**

The process of this consultation falls short of the Government's normally high standards of consultation. Local Authorities when being consulted by Government on legislative, policy and long term financial liability changes have a legitimate expectation that the consultation literature would be addressed to the Chief Executive Officer from whose office the Council's response could be directed and monitored.

However, in this case even the lack of a direct approach to relevant officers about the consultation and the seemingly unnecessary delay in providing a fuller explanation of the proposals has delayed the ability of the County Council to understand and consider the implications of the measures. It is also understood that the Eastern Region Government Office, which will be the prime contact over the development of the Council's LTP and which will be the Council's future source of funding for work under these regulations was not consulted either for some eight weeks into the consultation.

More fundamentally however, this consultation lacks any consideration of the likely costs overall to local highway authorities of implementing these measures. The Noise Action Plans could impose an unreasonable financial burden on Local Authorities at a time of severe restraint and cutbacks. Without realistic costings of this new burden, the County Council is justified in objecting to the proposals set out in these plans. Also, it is not clear what role the District Councils in two tier areas will play in identifying areas and determining appropriate noise ameliorative measures, which adds to the uncertainty surrounding these proposals which in themselves represent a major change of legal responsibility and liability.

Turning to the technical aspects of these proposals, the consultation is likely to raise unrealistic expectations amongst the public as to what might be achieved by way of amelioration of traffic noise.

The measures will have implications for longer term planning policy which are not immediately apparent.

There are roads within some Cambridgeshire Market Towns which carry volumes of traffic similar to some relevant roads in Cambridge, yet residential locations on such roads would not be eligible for ameliorative treatment because the total population of those towns is less than 100,000.

There could be implications for the routing of HCVs and buses, which might have them diverted from their desired routes, or otherwise appropriate routes.

In respect to "future proofing" against longer term public liability, Shire Local Highway Authorities have little direct control over what development can take place in the vicinity of their major roads and the standard of noise mitigation which should be employed by developers, and this issue needs to be recognised.

In answer to the specific questions:

Question 1 Do you agree with the overall approach being proposed for identifying important areas and first priority locations? If not, what alternative approach would you advocate?

*Response* It is not clear how accurate the method of identifying important areas has been. The maps produced are to a large scale and it is not immediately clear why some areas along a major road have been chosen in preference to others. The first priority areas appear sensible for a first phase.

Question 2. Do you agree with the overall approach being proposed for implementing the necessary procedures for identifying what further measures, if any might be taken to mitigate the noise in the important areas? If not, what alternative approach would you advocate?

*Response* The consultation is vague on the role of “Councils” or “local authorities” in the plan making process. Local Highway Authorities are clearly the “noisemaking” or “noise generating” authorities for local major roads, but what is the role of District Councils and what obligations should District Councils have for requiring developers to provide adequate noise mitigation or insulation at new residential developments? Could local planning authorities refuse planning permission for developments with inadequate noise insulation? It is not clear how Local Highway Authorities can “future proof” their position under these proposals.

Question 3. Do you agree with the approach being proposed for identifying and managing quiet areas in agglomerations with the aim of protecting the quietness of these areas and avoiding increases in noise? If not, what alternative approach would you advocate?

*Response* The definition of “quiet area” is not clear nor which authority in a two tier local government would designate the areas and be responsible for controlling noise.

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