

# NOISE

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BULLETIN

## COURTS

### County loses Judicial Review

Northumberland County Council has been told that its handling of planning consents for wind turbines failed to properly consider noise impacts.

Three consents were challenged by Andrew Joicey who took the case to the High Court. The court ruled that the county had not followed procedures correctly for three turbines (Wark Common (71m to blade tip), Brackenside (47m) and New Haggerston (34m)).

Joicey told *Noise Bulletin* that he felt the applications were of poor quality and had been accepted without sufficient scrutiny by planning officers who recommended approval, which was then granted.

Joicey, who has campaigned for several years against inappropriate planning



One of the refused turbines. The farmer is putting it up anyway

development in Northumberland, headed up a legal challenge by applying to

the High Court for a Judicial Review of the decisions. Northumberland County Council conceded that proper procedure had not been followed in a number of instances and agreed to quash the permissions, the decision then rubber stamped at the High Court in the form of a consent order. Joicey's costs of £10,000 were paid by the council.

Joicey said: "It has become increasingly obvious that there have been systemic errors in handling applications for both large wind farms and individual, so-called 'farm turbines'.

"Members of planning committees are in a difficult position. They are reliant on technical advice from officers and often appear to be backed

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## DIRECTIVE

### Europe consults on noise directive review

The European Commission has launched a consultation of its review report of the European noise directive.

The review report was released last year (*Noise Bulletin July 2011 p3*). The *Review of the implementation of the Environmental Noise Directive in accordance with Article 11 of Directive 2002/49/EC* listed progress to date and a few weaknesses of the directive, such as absence of trigger or target values, outdated noise indicators and poor enforcement. It is now consulting on this review.

The questionnaire starts: "The purpose of this consultation is to give stakeholders the

opportunity to express their views on two groups of issues: improvements of implementation and further development of legislation regulating noise sources."

The questionnaire is in the form of an online web questionnaire for easy analysis but there are also questions aimed at gathering 'free speech' responses on issues such as:

- Overall approach of the EU noise policy;
- Consistency with other policy fields;
- The concept of guideline, threshold, target, limit values;
- The concept of exposure reduction targets;
- Links to the source legislation

(eg: noise from cars or trains)

- Reporting;
- Guidance on action planning and quiet areas;
- The added value of the CNOSSOS-EU methodological framework over existing noise assessment methodologies used in EU member states;
- Differences between member states in taking action where noise reduction is needed;
- Public information;
- Public participation (eg. on development of noise action plans).

The questionnaire closes on the 25th September and can be viewed on <http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=ennoise&lang=en>

## IN BRIEF

### Airfield driving centre breaches notice

Harrogate Borough Council has successfully prosecuted a firm using an airfield to offer driving experiences to the public.

The operator of Tockwith Multi Drive Centre at Tockwith Airfield pleaded guilty to 10 offences of noise nuisance following the council's service of an EPA section 80 abatement notice in March 2010 that required them to stop the noise from activities on the site.

The operator appealed against the notice in 2010 but withdrew the appeal in April 2011. The abatement notice came in to force in August 2011 and it was after this date that Harrogate's environmental protection team witnessed 10 breaches of the notice.

The noise during events at the site was described by local residents as a constant loud drone, popping engines and tyre squeal which on occasions was so loud they had to leave their homes.

Environmental protection officers described the noise as intrusive and one that would not be expected in the predominantly rural soundscape. It prevented residents from enjoying their homes and gardens.

The sentence was a £2,000 fine for the offence on 3 September 2011 with no separate penalty for the other nine offences. On passing sentence the Chair of the Bench advised the operator that they considered the offences to be very serious and had the operator's financial circumstances been different the total fine would have been over £20,000.

Costs of nearly £4,000 were also levied.

## HIGHLIGHTS INSIDE...

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**IN BRIEF**

**Car limits noisier**

European transport and environment pressure group T&E warns that proposed vehicle noise rules could lead to noisier vehicles for the next 15 years.

Last December, the Commission presented a package of new noise limits for private and commercial vehicles. Now the European Parliament's environment committee has postponed a vote on the proposed changes from July to September. T&E say recent amendments water down noise safeguards saying the changes:

- Amend vehicle categories so that many more vehicles qualify for higher noise limits that were originally only intended for much larger or high performance vehicles;
- Round down measured results and allow vehicles in production to have more relaxed limits than tested vehicles;
- Allow flexibilities in the new test method that can be exploited by vehicle manufacturers to produce test results that are much quieter than the vehicle achieves on the road;
- Use very quiet tyres on trucks during the test and testing at facilities that do not meet current international standards.
- [www.transportenvironment.org/browse/issue/noise](http://www.transportenvironment.org/browse/issue/noise)

**Noise affects wildlife**

A report commissioned by Defra on the impact of noise on wildlife has concluded that there is scarce research and that more research is needed. Bristol researchers came to this conclusion through a desktop review of 85 other people's studies.

The review says: "The major finding is that a strong evidence base does not exist regarding the potential impact of anthropogenic noise on non-marine UK priority species and species of principal importance." These conclusions cost Defra £30,000.

- *The effects of noise on biodiversity (NO0235) Final report for Defra*, [www.defra.gov.uk/environment/quality/noise/research](http://www.defra.gov.uk/environment/quality/noise/research)

**WIND TURBINES**

**Council adopts 1km+ distance**

Milton Keynes Council has adopted as policy separation distances for wind turbines.

For turbines over 100m tall, the distances will be more than 1km. This runs contrary to national policy which stipulates that Etsu assessments should be used rather than locally-set fixed distances. Other councils have adopted similar policies, for instance Lincolnshire County Council, but it isn't a statutory planning authority.

The guidance has been issued through a supplementary planning document *Review of Local Plan Policy D5 separation distance for wind turbines*.

It said: "Parish councillors requested that a review of the Local Plan be undertaken, primarily with the view that the specified 350m minimum separation distance for wind turbines be increased because the size of wind turbines has increased significantly since publication of local and national policy. The primary planning-related concerns raised were residential amenity, noise and health and safety. The document will be used as a material consideration in assessing wind turbine applications."

The SPG covers the issue of Etsu as national guidance, listing criticisms, reviews and amendments in recent months.

It explains: "Overall, given the speed of progress in wind energy technology and the age of local and national policy covering wind turbine developments, as well as evidence that updated guidance

is required in relation to noise from wind farms, it is considered appropriate to introduce some additional, up to date, guidance relating to wind turbine proposals in Milton Keynes, in order to help protect residential amenity. The best way of protecting residential amenity is to review the separation distances between turbines and housing."

It accepts that "mapping work undertaken has shown a separation distance of 1km or more would severely restrict large wind turbines".

So the clause agreed is: "If the height of the wind turbine tip is:

- 25m, the minimum distance requirement is 350m;
- 100m, the minimum distance requirement is 1000m;
- Between 25m and 100m, the minimum distance requirement is pro-rata between (i) and (ii) above, according to its height; or
- Greater than 100m, the minimum distance requirement is projected between (i) and (ii) above, according to its height."

Milton Keynes Council clarified the latter clause for *Noise Bulletin*. It told us that for a turbine over 100m, the separation distance would be 1km plus 8.66m separation for every additional 1m of tip height (ie a 140m high turbine would have a 1,346m separation distance).

RWE Npower, which was planning two large wind farms locally, is reported to have told the council that its position is unlawful.

- <http://cmis.milton-keynes.gov.uk/CmisWebPublic/Meeting.aspx?meetingID=10219>

**Editor's comment:** *This is believed to be the first planning authority adopting bigger-than-Etsu separation distances as a material planning consideration.*

*Large wind turbines are supposed to be governed by centrally-imposed National Policy Statements which stipulate use of Etsu methodology. But here a local planning authority is challenging that position.*

*This may prove an interesting test of the Government's true localism credentials and we suspect that Milton Keynes will not be the last authority to go down this route.*

**Moray moratorium**

Moray Council says it is the first local authority in Scotland to seek a moratorium on windfarm applications.

The council is calling on the Scottish Government to agree to freeze applications for windfarm developments in Moray for the duration of a public consultation on new policy guidance on the erection of wind turbines.

Once finally approved, the new guidance will be treated as a material consideration in determining planning applications for all wind turbines over 20 metres in height.

**WIND TURBINES**

**Northumberland Judicial Review (from page one)**

into a corner when they are constantly warned that a refusal may result in an expensive appeal by the applicant.

"This case has exposed that planning officers rely entirely on environmental health officers for their opinion on the correctness of applicant's noise predictions. Sadly, and worryingly, it is also perfectly clear that the environmental

health services lack the skill, expertise and understanding necessary to check the noise data and predictions supplied by applicants."

The grounds for Joicey's case includes that the council:

- Failed to consider strategically the environmental effect of allowing a proliferation of single wind turbines throughout the county;

- Failed to have regard to the correct policies in determining single wind turbines;
- Failed to include a correct condition with regard to limiting noise impacts;
- Failed to consider cumulative noise, while including a noise condition that is unenforceable;
- Failed to include a noise assessment condition, in breach of noise assessment guidelines.