

## **Control of Pollution Act 1974 Section 61**

### **Guidance on Completing an Application for Prior Consent**

#### **Noise from Construction & Demolition Sites**

##### **Introduction**

Section 61 of the Control of Pollution Act 1974 allows developers and their building contractors to apply for 'prior consent' for noise generating activities during the construction phase of a development.

If your development may/is likely to have a significant impact on neighbouring premises from noise or vibration it is recommended that you apply to the Council for a prior consent. Alternatively you may be invited to do so by via a planning application.

A prior consent is an agreement between the developer and the Council which allows a reasonable level of noise to occur. Having such an agreement can also protect you from further legal action.

This proactive approach requires the assessment of the construction working methods that will be used to undertake the work and the prediction of likely construction noise levels at sensitive receptors. It is intended to manage the generation of construction noise using the 'best practicable means' (BPM) available to complete the works.

This guidance document provides a template for submitting s.61 applications. Developers and building contractors should familiarise themselves with both Section 60 and 61 of the Act before submitting an Application.

No prior consent will be issued if construction, including demolition work (other than minor preparatory or enabling work agreed in advance), has already commenced. If works have started, then the Council is likely to serve s.60 notice setting out its own terms and conditions.

The control of noise applies to the following works:

- (a) the erection, construction, alteration, repair or maintenance of buildings, structures or roads;
- (b) breaking up, opening or boring under any road or adjacent land in connection with the construction, inspection, maintenance or removal of works;
- (c) demolition or dredging work;

(d) any work of engineering construction (whether or not also comprised in (a), (b) or (c) above)

An application form is attached to this guidance note. When submitting an application you are advised to include as much information as possible to avoid any delays in granting the consent. You may attach a separate sheet/s (appendices) if necessary for the required details.

**The completed application form must be submitted at least 28 days before the intended work is due to commence.**

Although, contractors are encouraged to submit the application in draft well in advance so that appropriate changes can be made before the final application is submitted.

Once an application for prior consent has been made by the contractor then the Local Authority has 28 days to either:

- Accept the application in its entirety and provide consent
- Accept the application but provide consent with conditions attached
- Refuse the application

The applicant then has the opportunity to make an appeal to the Magistrates court within 21 days of the decision if their application was refused, or they feel that a condition is unreasonable or a decision was not made by the Local Authority within 28 days.

It is recommended that the applicant makes a draft application to the Local Authority, so that any issues identified at this stage can be discussed and agreed in preparation to the submission of the final draft of the application. This should minimise any delay at the later stages of the process.

### **Noise Assessment**

You should engage an acoustic consultant experienced in construction noise and vibration assessment and prediction to complete your s.61 application. The assessment should be completed as per British Standard 5228 (Parts 1 & 2) and usually take the form of the ABC Method.

To assess the impact of noisy work, baseline levels of ambient noise and vibration on the site boundary should be established. These data / details may be available from work carried out for the planning application stage of the development. The measured noise and vibration data should include results for periods during which the works will be carried out.

Predictions of construction noise should be calculated at one metre, free field, from the facades of the worst affected (generally the nearest) sensitive receptors, thus allowing for a 'worst case scenario' noise assessment to be made.

If you require any further information, please contact us on 0300 123 6696 or email Bridgend: [pollution-bridgend-srswales@valeofglamorgan.gov.uk](mailto:pollution-bridgend-srswales@valeofglamorgan.gov.uk)

Cardiff: [pollution-cardiff-srswales@valeofglamorgan.gov.uk](mailto:pollution-cardiff-srswales@valeofglamorgan.gov.uk)

Vale of Glamorgan: [pollution-vale-srswales@valeofglamorgan.gov.uk](mailto:pollution-vale-srswales@valeofglamorgan.gov.uk)

### **Dispensations and Variations**

Changes to Section 61 consents can be sought once construction works are under way. Depending on the nature of the change this will take the form of a dispensation or variation to the consent.

#### **Dispensations**

Dispensations apply to material changes (i.e. those predicted to result in increased noise effects) to working methods. This may be a revision to working hours, work duration, persistent overrun, or major changes to the proposed construction methodology e.g. changes to major items of plant. There is no formal provision for dispensations in CoPA 1974 (except by making a new Section 61 application), but local authorities have facilitated procedures for them, typically as follows:

Dispensations will be applied for at least 14 days in advance of applying the proposed modified methods and sent to the Local Authority by e-mail. A template form is attached to the end of this guidance note.

Where rescheduling relates to work of a critical nature (such as key activities likely to delay other key activities) applications will be made where practicable at least 48 hours in advance and at least 7 days in advance if the work is expected to last for a period of 5 days or more.

A dispensation will be sought by means of an application in writing setting out the revised construction programme or method and the relevant noise calculation. Regard will be also made to any noise insulation/temporary housing issues as a result of the revised works in accordance with specific Noise and Vibration Mitigation schemes/policies.

#### **Variations**

Variations apply to minor changes to a Section 61 consent which will not change the overall predicted impacts of the works, for example a change to the timing of an activity within agreed hours and working period, or minor changes to working methodologies.

Variations will be applied for by email where practicable 7 days but at least 48hr in advance of applying the modified methods, using the template below. A template form is attached to the end of this guidance note.

Both agreed dispensations and variations will be emailed by an appropriate officer from the Local Authority.

#### **Notification of Modifications**

Where such working outside normal hours has been discussed and accepted, nearby sensitive receptors will be informed as soon as reasonably practicable regarding the nature and likely duration of the revised work.

## **Overruns**

There are likely to be circumstances where overruns to planned working hours will occur either for reasons of health and safety or engineering practicalities. Should an overrun occur the local authority will be informed by phone with a reason for the occurrence followed by confirmation by email. Examples of the type of work envisaged would include where pouring concrete takes longer than planned due to equipment failure.

## **Emergency works**

In the case of work required in response to an emergency or which if not completed would be unsafe or harmful to the permanent works, the local authority will be informed as soon as reasonably practicable of the reasons for, and likely duration of, the works.

## **FAQs**

### **What is a Section 61 consent?**

This is where a building contractor applies to us for a prior consent for noisy works under Section 61 of the Control of Pollution Act 1974. The application details how noise is to be managed on-site. The underlying principle is that Best Practicable Means (BPM) is being adopted. This has a legal definition but in summary requires the person/s issued with the consent to minimise noise and vibration resulting from his operations and to do so through the appropriate selection of plant, construction methods and programming.

### **What are the specific requirements on the contractor under the Section 61 consent?**

#### **a) General principles**

At the planning stages of the construction programme and the setting up of the site, the contractor needs to demonstrate that the impact of noise and vibration has been properly considered when choosing plant and equipment and also, where possible, in the layout of the site and the scheduling of works. To this end the consent identifies methods of work and noise reducing measures required to minimise the noise impact.

#### **b) Particulars of the works to be carried out**

Details should be provided of the type of work to be carried out at each stage.

#### **c) Noise levels**

As part of the application the contractor has to provide predicted noise levels at affected residential premises over the applied project period. These predicted noise levels are calculated on the basis of the equipment being used, at any part of the project programme and the length of time the equipment is used during any given period. By issuing the consent, we are accepting the levels provided on the basis that BPM have been adopted within the calculated figures.

#### **d) Proposed steps to minimise noise and vibration**

The use of best practicable means (BPM) at all times, details of the specific BPM measures to be employed should be indicated (see British Standard 5228 for guidance).

#### **e) Noise monitoring**

The contractor is required to undertake noise monitoring for the duration of the works and where identified as necessary, vibration monitoring. This monitoring is compared against the predicted levels and where it exceeds these levels at any day or night period, the contractor is required to review the works and where necessary take corrective action to reduce the noise levels for future day or night time periods.

The noise monitoring is also used to monitor exceedances of noise insulation/ temporary re-housing trigger levels the contractor/project may have adopted. The results of any noise and vibration monitoring results during the progress of the project are required to be submitted to us.

#### **f) Communication**

The contractor/promoter is required to provide information to local residents in the form of a meeting, drop in centre, or letter drop, prior to the works, so adequate details of the programme are given. Throughout the project, where works are planned at night, additional letter drops may be provided with the option of additional drop in centres and/or meetings. The communication shall provide a name and telephone number for a main contact for the works (not the Council).

Community liaison can greatly help to minimise any complaints as it will show that the noise has a finite duration and will provide assurance that there will be someone to respond should any distress be caused.

#### **g) Hours of working**

Hours of work proposed for each method or stage of work should be provided, and can include a programme detailing work operations to be carried out on daily (or other) cycles

#### **What if the contractor changes the work programme. Is this allowed?**

Where the work relies on railway possessions or scheduling works around busy road intersections, changes may be required to the work programme. The consent allows the contractor to apply for a dispensation or variation to include these changes. The dispensation is required at least 14 days in advance of the proposed works. The contractor shall include details of how residents likely to be affected by the works will be advised. There also needs to be reasons given as to why the works cannot be carried out within the terms of the consent.

#### **Can we withhold issuing a Section 61 consent?**

We have the right to determine an application from a contractor within 28 days and there is a right of appeal for the contractor if the Council withhold issuing a consent. We therefore have to have grounds that the level of information provided is not sufficient before a decision is made to withhold a consent. It should also be noted that we can add conditions to the consent, where any additional requirements are deemed necessary. Contractors are

encouraged to submit the application in draft some time before the works start, so that appropriate changes can be made before the final application is submitted.

**When is noise insulation and/or temporary re-housing offered to affected residents?**

Noise insulation and/or temporary re-housing is only provided if the project has its own specific policy, which is generally only applicable for transport infrastructure projects. This policy recognises that where night time working is necessary, off-site noise mitigation will be required to minimise the disturbance and exposure of noise within the affected habitable rooms.



Shared **Regulatory** Services  
Gwasanaethau **Rheoliadol** a Rennir



## CONTROL OF POLLUTION ACT 1974

### Application Form for Section 61 Consent

<b>Submission No:</b>	
<b>Local Authority Reference:</b>	

#### To Shared Regulatory Services

**I/WE HEREBY MAKE AN APPLICATION** for prior consent in respect of works to be carried out at the site specified in section 1 below, under Section 61 of the Control of Pollution Act 1974.

Signed ..... Date.....

#### APPLICANT'S DETAILS:

Name.....

Address.....

.....

Post Code.....

Address of registered office.....

.....

Post Code.....

Telephone .....

E-mail: .....

Applicant's interest in the site .....

1. Address of proposed works and location plan	
2. Name and address of principle contractor.	

3. Particulars of works to be carried out, including any piling operations, demolition work/ concrete crushing and screening work, concrete pouring and power floating	
4. Methods to be used in each stage of works	
<p>5. Hours of Work</p> <p>Are there envisaged to be any situations where work will be carried out outside 'normal' working hours?</p> <p>If yes, provide a robust rationale / justification for any works which need to be undertaken outside of 'normal' working hours and the proposed hours of working</p>	
6. Number, type and make of plant and machinery (including heavy vehicles) stating Sound Power Levels.	
<p>Table 6.1 Full List of Plant- including number and type of compressors/ temporary traffic lights to be used</p>	

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7. Proposed steps to minimise noise and vibration/ best practicable means to be employed to control noise	
8. Predicted noise and vibration levels	
9. Approximate duration of Works- include start and finish dates	
10. Person to contact in case of complaint	
11. Identification of closest residential receptors and proposed steps to ensure that residents are not adversely affected by noise and vibration, including any proposed monitoring locations	
10 Site Plan	
11. Other Information	
12 List of Plans and documents attached	

**CONTROL OF POLLUTION ACT 1974**

**Dispensation from Section s61 Consent**

<b>Contractor S61 reference:</b>	
<b>Local Authority S61 Reference:</b>	

**To: Shared Regulatory Services**

**I/WE HEREBY MAKE AN APPLICATION** for a dispensation in respect of works to be carried out as specified under Section 61 consent of the Control of Pollution Act, 1974.

Signed ..... Date.....

**APPLICANT'S DETAILS:**

Name.....

Address.....

.....

Post Code.....

Address of registered office.....

.....

Post Code.....

Telephone .....

E-mail: .....

Duration of works requiring dispensation	
Date of works requiring dispensation	

Brief description of additional works/changes to working methodology	
State reasons why works cannot be done under terms of original consent	
Describe any changes to hours of working.	
List additional or plant and equipment.	
Describe BPM noise mitigation measures.	
State revisions to predicted noise levels, including reassessment for noise insulation or temporary re-housing. Provide separate sheets if necessary	
When and how residents are to be notified. (Provide copy of letter attached)	

**CONTROL OF POLLUTION ACT 1974**

**Variation from Section s61 Consent**

<b>Contractor S61 reference:</b>	
<b>Local Authority S61 Reference:</b>	

**To: Shared Regulatory Services**

**I/WE HEREBY MAKE AN APPLICATION** for a variation in respect of works to be carried out as specified under Section 61 consent of the Control of Pollution Act, 1974.

Signed ..... Date...

**APPLICANT'S DETAILS:**

Name.....

Address.....

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Post Code.....

Address of registered office.....

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Post Code.....

Telephone .....

E-mail: .....

Duration of works requiring variation	
Date of works requiring variation	
Brief description of proposed works	

State reasons why works cannot be done under terms of original consent	
Describe any changes to hours of working.	
Describe BPM noise mitigation measures.	
When and how residents are to be notified. (Provide copy of letter attached)	