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Cc: [Emma Schofield](#); [Dee Mawn](#); [Richard Allard](#); [James Willcock](#); [Richard Guyatt](#); [Michael Reep](#); [Terry Karampini](#)
Subject: Metrowest Deadline 4 submission on behalf of North Somerset Council(Local Planning Authority) -Action point 19 from ISH 1-Our ref: PORT-SP067* Metrowest 1
Date: 19 January 2021 10:45:19
Attachments: [Prior Consent for Noise from Construction Sites Section 61 Consents-EPP73E.pdf](#)

Our ref: PORT-SP067* Metrowest 1

Hello Bart and Lily

Please see below, our response to various matters that have been raised during the Issue Specific Hearings. I have commented on Action 19 below on behalf of North Somerset Council as Local Planning Authority and local Council for the area.

Issue specific hearing 1

Action 19. Applicant to review whether consents under s61 of the Control of Pollution Act should be added to the list of other permits/consent that the Applicant would need to obtain and if they do an update as to when and how these would be applied for/obtained.

1. We consider that consents under the Control of Pollution Act should be added to the list of other permits/consent that the Applicant would need to obtain.
2. Section 61 of the Control of Pollution Act requires the contractor to apply to the Environmental Protection Team at North Somerset Council for a prior consent to undertake noisy works. 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/her operations and to do so through the appropriate selection of plant, construction methods and programming.

The attached document provides more detailed information on what is required but essentially the completed S61 application must be submitted at least 28 days before the intended work is due to commence. It is recommended however that a draft application is submitted well in advance so that appropriate changes can be made before the final application is submitted. Applications would have to pay particular attention to issues around Avon Road, Pill where the line passes very close to people's homes and also the proposed Portishead and Pill Stations. Any pile driving activities will also need careful consideration within the application.

I hope that this responds adequately to the Action Point but if you have any further questions arising from this please let me know and I will do my best to help.

Kind regards

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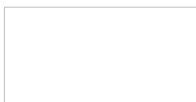
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Date

January 2020

Location

Environmental Health
Environmental Protection
Procedures
Construction Sites



Prior Consent for Noise from Construction Sites (Section 61 Consents) - EPP73E

Procedure

Scope

The procedure covers what an investigating officer must assess and review when receiving an application for a section 61 consent for noise arising from construction work. It also covers the circumstances in which variations and dispensations are required post-consent.

Legislation

Control of Pollution Act 1974, section 61

Responsibility of

Environmental Health Practitioner

Summary

The prior consent process is designed to protect neighbouring residents and businesses from the effects of noise pollution from construction sites.

Contractors carrying out construction activities may apply for consent to undertake works that will give rise to noise. These activities may include:

- a. Erection, 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 works
- d. Any work of engineering construction (whether or not already comprised within a, b, or c above).

Issuing a consent allows the local authority to set conditions including times during which construction work can be carried out, the level of noise which may be emitted, the work methods that may be used and the local authority may also specify the plant that can be used. The duration of the consent can also be limited.

Major infrastructure projects

Changes to the CoPA74, sections 60 and 61, as well as sections 80 and 82 of the Environmental Protection Act 1990, are sometimes included in the enabling legislation for major national infrastructure projects and may need to

checked if such projects are occurring in a local authority's area. For example, the High Speed Rail (London–West Midlands) Act 2017 changes the appeal process against section 60 and 61 from appeals to a magistrates' court to appeal to the Secretary of State. It also introduces an arbitration mechanism, adds a statutory defence to EPA section 80 and restricts action that can be taken by individuals under the EPA section 82 for noise nuisance.

General Procedures

1. An applicant must submit an application at least 28 days prior to works being undertaken and the local authority must determine the application within 28 days of receiving the application. If the application is not determined within the 28 days or it has been determined within 28 days but conditions are attached, the applicant then has a 21 day period within which to appeal to the magistrates' court.
2. It is critical that the officer reviewing the application ensures that sufficient information has been provided with the application to ensure that, provided the works are carried out in accordance with the application, the local authority would not serve an enforcement notice in respect of the works.
3. The local authority can attach conditions to the consent to limit the activity in order to give the local authority control over it. It is essential that the conditions on the consent are watertight as there is little that a local authority can formally do once the consent is in place. The consent should include clauses that allow variations and dispensations to allow some flexibility to both the applicant and the local authority should problems or unforeseen eventualities arise.
4. If an application for prior consent is made, works should not commence without the applicant first obtaining a section 61 consent.
5. It is good practice for the applicant to submit a draft consent application prior to submission of a formal application (particularly with large or complicated developments) to enable consultation with the local authority and residents regarding potential conditions or determine what further information a local authority may require. For this reason, the local authority may wish to recommend to the applicant that they adopt this approach.

Applications that involve several local authorities

7. Where works are proposed on the boundary of one local authority but impact on those in a neighbouring borough, the applicant should copy the application to the neighbouring local authority.
8. The following information must be provided:
 - a. Contact details of the person(s) responsible
 - b. Location of the proposed works
 - c. Type of works proposed
 - d. Method statements for works
 - e. Site plan detailing the location of fixed machinery, areas of significant activity (including haulage routes) site entrances and exits, location of noise barriers (including site buildings) and enclosures. Additional plans may be required for different stages and/or phases of the works. The site plan must also include identification of sensitive receptors. These include residential properties, schools, hospitals, places of worship and businesses having a particular sensitivity to noise.
 - f. Location map showing the traffic routes on and off the site for delivery vehicles and removal of material.
 - g. Duration of the proposed works and the hours of work. Generally, local authorities will have pre-defined 'core hours of work' that construction works may be undertaken and are restricted by way of condition in the consent. Some applications however may include deviations from the core hours and may include 'shoulder hours' for the start up/close down activities e.g. deliveries, loading/unloading, arrival/departure of workforce). Additionally, there may be certain construction activities that an applicant may request that fall outside core hours completely. Where these are proposed, a detailed explanation should be expected to include why the works cannot be undertaken in the core hours, the consequences of not being able to complete works out of core hours and safety considerations. Simply 'catching up on programme' is not generally an acceptable reason to work outside of the core hours.
 - h. Sound power levels of equipment and machinery should be submitted, this information can be obtained from BS 5228 Part 1 or other sources e.g. manufacturers specifications.
 - i. Predicted noise levels at sensitive receptors. This should include 'worst day' and 'average day' levels. 'Worst day' levels correspond to the noise generated over one day whilst the construction (or other) activities are at the nearest point to any identified 'sensitive receptor', taking into account any reduction afforded by barriers or enclosures. 'Average day' levels represent the construction (or other) noise averaged over a one-week period, taking into account any variation in activity location and percentage on-time during the week, and any noise

reduction afforded by noise barriers and enclosures. Different stages or phases of the construction may require the prediction of additional worst and average day levels. Vibration data may also be required if, for example, pile-driving is being carried out.

- j. A pre-consent ambient sound level survey may be required to assess the impact of the proposed work on sensitive receptors. The survey should include monitoring results for daytime (08:00–18:00) evening (18:00–23:00) and night-time (23:00–08:00) periods including Saturday, Sunday and public holiday periods.
- k. Proposed steps the applicant proposes to take to minimise noise. The applicant must demonstrate that best practicable means (BPM) are to be employed in order to minimise noise. As a first point of reference, the local authority should compare the techniques proposed with those outlined in given in BS 5228 Annex B on attenuation methods for noise on construction sites.

The following examples are given below:

- For any particular job, the quietest plant and/or machinery should be used
- All equipment should be maintained in good mechanical order and fitted with the appropriate silencers, mufflers or acoustic covers
- Stationary noise sources should be sited as far as possible from noise-sensitive development and where necessary acoustic barriers should be used to shield them; such barriers may be proprietary types, or may consist of site materials such as bricks or earth mounds
- Any piling should be carried out by the method causing the minimum of noise and vibration; sheet steel piling whether permanent or temporary should be driven by vibratory jacking or box-silenced percussion systems or a combination of these methods subject to the requirements of the district surveyor/appropriate local authority officer
- The movement of vehicles to and from the site must be controlled and should not take place outside the permitted hours unless with prior approval; employees should be supervised to ensure compliance with the noise control measures adopted

- l. Protocol for noise monitoring during the course of construction
- m. Details of applicant consultation with neighbours and information given.

9. The investigating officer must assess the application in line with BPM, local procedures, balancing the requests of the developer in proximity to the area and location of sensitive receptors. The officer should ideally consult with the applicant regarding proposed conditions, particularly where potentially limiting conditions that may affect the project plan are proposed, for example, reducing permitted hours where particularly noisy operations are identified.

10. If upon the expiration of the 28-day determining period, the local authority has not determined the application, the applicant has 21 days within which to appeal to the magistrates' court on the grounds of non-determination, or disagreement with the conditions that have been proposed. The appeal may be varied, quashed or dismissed by the court.

11. A consent given under CoPA74, section 61, must contain a statement to the effect that the consent does not constitute a defence against any proceedings taken by an individual under section 82 of the Environmental Protection Act 1990.

Post-consent

12. The applicant must notify the local authority if details in the application change, for example, activities, duration or machinery used.

13. Following the issue of a consent, a local authority cannot serve a notice under section 60 of the CoPA, or section 80 of the Environmental Protection Act 1990. However, a notice may be served by a private individual under section 82 of the Environmental Protection Act 1990.

Dispensations

14. If alternative items or use of additional items of plant are to be used, despite BPM being employed, which cause the resulting overall noise levels to exceed those given in the application, the applicant must submit an application for dispensation as soon as reasonably practicable. Working hours, work duration, over-runs, and major changes to methodology (major items of plant) would fall within this process. This is not a formal procedure under the Control of Pollution Act 1974 but has been adopted by many local authorities.

Variations

15. A variation is a formal application that applies to section 61 consents and applies to material changes to the consent which will not change the overall predicted impact of the works, for example, change to timing of an activity within agreed hours and working period or minor changes to methodology. It should be applied for at least 48 hours in advance of its planned occurrence, but earlier where possible.

Local Procedures

The standard turn-around times may be altered by local agreement
Permitted Hours of Work, Monday-Friday, Saturday, Sunday's and Public Holidays
Model/template conditions
Dispensation protocols (if applicable) and timeframes for response
Procedure for dealing with applications that span multiple LA boundaries

Enforcement

A local authority may take action for a breach of the conditions issued with the permit.

Power of Entry

Control of Pollution Act, section 91
The Environment Act 1995, sections 108
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Further Guidance

See: [Environmental Protection / National Policy and Guidance / Construction Sites](#)

[British Standards / Environmental Protection Collection](#)

BS 5228-1:2009+A1:2014 Code of Practice for Noise and Vibration Control on Construction and Open Sites- Part 1: Noise

BS 5228-2:2009+A1:2014 Code of Practice for Noise and Vibration Control on Construction and Open Sites- Part 2: Vibration

Other reference documents:

CIRIA PR70 How much noise do you make? A guide to assessing and managing noise on site, Construction Industry Research and Information Association 1999

CIRIA C741D Environmental good practice on site, Construction Industry Research and Information Association 2015

CIRIA R120 A guide to reducing the exposure of construction workers to noise, Construction Industry Research and Information Association 1990

CIRIA TN138 Planning to reduce noise exposure in construction, Construction Industry Research and Information Association 1990

CIRIA TN142 Ground-borne vibrations arising from piling, Construction Industry Research and Information Association 1992

Advisory Leaflet 72 (1976) Noise control on building sites, DoE (now out of print)

[Crossrail Learning Legacy. Webinars and Papers on construction in an urban environment and noise control, including COPA Section 61 Prior Consents, tunnelling, and vibration and listed buildings](#)

[London Good Practice Guide: Noise & Vibration Control for Demolition and Construction, London Authorities Noise Action Forum July 2016](#)

Documents

See: [Environmental Protection / Documents / Construction Sites](#)

Consent Template

Related Procedures

See: [Environmental Protection / Procedures / Noise / Noise in the Street](#)

Dealing with Noise in the Street

