

S61 SAMPLE NOTICE

Typical format of s61 Notice, but other conditions could be added or removed:

CONTROL OF POLLUTION ACT 1974, SECTION 61 PRIOR CONSENT IN RESPECT OF WORKS ON CONSTRUCTION SITES

To: Contractor.....

- 1.1 The Mayor and Burgesses of The Royal Borough of Kensington and Chelsea, London has considered your Application dated for prior consent for construction work pursuant to Section 61 of the Control of Pollution Act 1974 ("the 1974 Act") in respect of works to be carried out in The Royal Borough of Kensington and Chelsea, London in connection with the project known as:-

Site address

- 1.2 In this Consent the following words and expression shall, unless the context otherwise requires, have the following meanings:-

"Approval of the Council" means the prior approval in writing of the Director of Environmental Health

"Applicant" means:

"Application" means the document comprising the Application submitted byreceived by email and by post; copy attached to this Notice.

"Best practicable means" means "best practicable means" as defined by Section 72 of the 1974 Act.

"Code of Practice" means the British Standards Institution Code of Practice number BS5228 Part 1: 1997, 'Code of practice for noise and vibration control on construction and open sites' - or any subsequent Code of Practice amending consolidating or replacing it as approved by the Secretary of State pursuant to Sections 71(2) and 104 of the 1974 Act

"Director of Environmental Health" means the Council's Director of Environmental Health and shall be deemed to mean the officer of the Council from time to time holding that appointment or (if no officer holds that appointment) carrying out the duties of the appointment

"Lorry" means a vehicle of more than 5 tonnes gross weight

"Site" means the land on which Works subject to this Consent are to be carried out and which are described in and shown for identification purposes as Appendix 3 of the Application.

"Works" means the works and ancillary operations to be carried out on the Site

- 1.3 Words in this Consent importing the singular meaning shall where the context so admits include the plural meaning and vice versa.

- 1.4 Words in this Consent of the masculine gender shall include the feminine and neuter genders and vice versa and words denoting actual persons shall include corporations and vice versa.
- 1.5 References in this Consent to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time and time and for the time being in force.
- 1.6 The Council hereby gives Consent to the Works subject to the following conditions:-
- 2.0 **Method of Work**
- 2.1 All Works and operations ancillary thereto which are audible at the Site boundary or at such other place as may be specified by notice in writing by the Director of Environmental Health shall be carried out exactly and only as described in the Application.
- 2.2 No plant or machinery or method of work shall be used to carry out the Works on the Site other than those listed in the Application as to be used on the Site. Any changes to the plant and machinery or method of work will be subject to an application for dispensation of this Consent as per section 11 of the Application. The application for dispensation shall contain the following:
- (a) Reason for the addition or change to the plant and machinery list or method of work.
 - (b) Noise emission and sound power of the new plant
 - (c) Calculations predicting noise impact.
 - (d) Duration of use of the plant and a Method Statement of its use
- 2.3 Applications for minor variations shall be as per section 3.0 herein.
- 2.4 There should be no percussive pile driving on the Site.
- 2.5 All plant and machinery shall be properly silenced and maintained in accordance with the manufacturers' instructions and shall comply with the Code of Practice.
- 2.6 The best practicable means to keep noise and vibration from the Site to a minimum shall be employed at all times.
- 2.7 Any lighting used on the Site shall at all times be directed away from residential properties. (Not covered by s61)

3.0 **Hours of Work**

- 3.1 Subject to conditions 3.3 and 3.4 below no Works shall be carried out on the Site otherwise than between 08:00 hours to 18:30 hours Monday to Friday and from 08:00 hours to 13:00 hours on Saturdays.
- 3.2 On Saturdays, the contractor shall take reasonable measures whenever possible to ensure that particularly noisy works do not commence before 9am.
- 3.3 No works audible at the Site boundary shall be carried out on Sundays and Public Holidays or after 13.00 on Saturdays.
- 3.4 When it is necessary in the interests of health and safety or as a result of unforeseen circumstances works may be carried out with the approval of the Council. An application for such approval of variation must be made in writing and shall be sent by email to such officer nominated by the Director of Environmental Health and copied to environmentalhealth@rbkc.gov.uk and shall include the following particulars:
- a) The reasons why the works must be carried out outside the hours permitted by this Consent.
 - b) Details of the operation and method.
 - c) Predicted noise levels at relevant noise sensitive locations and mitigation proposals.
 - d) The date and times it is proposed to carry out the works.
 - e) The proposed duration of the works.
 - f) The person responsible on the site.
 - g) The telephone contact number.
 - h) A copy of the letter notifying residents living in the vicinity of the site of the proposed change in the working hours.
- 3.5 In the event of an emergency where it is not possible to follow the procedure set out in condition 3.4 above the approval of the Council may be sought by contacting the Case Officer on tel:.....or the Council's Environmental Health Line 020 7361 3002 and e-mail: environmentalhealth@rbkc.gov.uk
- 3.6 A site board clearly visible from the highway shall be erected at each site notifying the public of the hours of work permitted by the above conditions.

4.0 **Lorry Movements**

- 4.1 There shall be no lorry movements to and from and at the site otherwise than as follows: - between 08:00 hours and 18:30 hours Mondays to Fridays and from 08.00 to 13.00 on Saturdays.

PROVIDED ALWAYS that there shall be no lorry movements on Sundays and Public Holidays or after 13.00 on Saturdays.

4.2 No deliveries to the site or removal of plant, machinery, equipment, materials, refuse or any other items shall be carried out otherwise than during the hours permitted by conditions 3.1, 3.3, 3.4 and 4.1 above.

5.0 **Noise Mitigation**

5.1 Before works commence on site acoustic hoardings, a minimum 3.2m high shall be erected around the site boundary to enclose the site,

5.2 Any generators, concrete pumps, pneumatic or power breaker hand tools or similar items of noisy plant which in the view of the Director of Environmental Health give rise to unacceptable levels of noise shall be enclosed or shielded within temporary mobile acoustic screens to the satisfaction of the Director of Environmental Health or an Officer nominated by him.

5.3 Concrete delivery wagons and any mobile concrete pumps located outside the site hoarding shall be enclosed within temporary acoustically absorbent panels a minimum of xx.xxm high with sealed gaps to the satisfaction of the Director of Environmental Health or Officer nominated by him.

5.4 In order for concrete deliveries and concrete pours to be completed within the permitted hours ...*Contractor name*.....shall agree and have in place a protocol with the concrete supplier and/or concreting subcontractor to ensure that sufficient contingency is allowed, to consider pour size, delivery times and concrete placement, and mix workability so that works do not overrun the permitted hours as per section 3.0 above.

6.0 **Dirt on the Road (Note not covered by s61)**

6.1 The wheels of all vehicles leaving the site shall be checked and cleaned as necessary so that no mud or other dirty substance is transferred to the highway.

6.2 Access and egress routes for site vehicles shall be kept clean to minimise dust and damping down shall be carried out, as necessary, in order to suppress dust.

7.0 **Vibration and Noise Monitoring**

7.1 An independent consultant ("the Consultant") shall be retained by the Applicant to monitor continuous noise levels and vibration levels at positions and locations as approved by the Director of Environmental Health or Officer nominated by him. The monitoring position(s) shall be adequate to provide data which can be used to compare with the noise level predictions

7.2 A level of $xx\text{dBL}_{\text{Aeq}(1\text{hour})}$ measured at any monitoring position shall trigger a text alert to be reported to the EHO.

7.3 If during the carrying out of the works the Council receives complaints of noise or vibration from residents as a result of works on the site the Consultant will take measurements as necessary and carry out a review procedure of the activities. Any additional mitigation measure recommended by the Consultant to reduce noise or vibration levels will be submitted to the Director of Environmental Health.

7.4 Any measures recommended by the Consultant will be implemented if so required by notice in writing from the Director of Environmental Health.

- 7.5 A report of the results of the continuous site noise monitoring will be supplied to the Director of Environmental Health or Officers nominated by him on a monthly basis. The noise monitoring results will include a comparison check with the predicted levels in the application. At other times hourly noise data shall be supplied as reasonably requested by the EHO.
- 7.6 The EHO shall have, during site working hours, access to any real time noise monitoring data.

8.0 **Site Contacts and Information**

- 8.1 and, listed as contact names in the application, will be responsible for the supervision of the works and the Director of Environmental Health shall be notified immediately if there are any changes to these personnel.
- 8.2 Specific leaflets and information shall be produced and sent to all residents living near the site before works commence and copies shall be sent to the Director of Environmental Health.
- 8.3 Up-to-date general arrangement plans of the works shall be sent to the Director of Environmental Health. Any significant amendments or revisions to those plans that are likely to result in changes to the Application shall be sent to the Director of Environmental Health as soon as they are produced together with an application for Dispensation as per condition 2.2.
- 8.4 Representatives of the applicant will attend regular site meetings with the Director of Environmental Health (DEH), or officers nominated by him, and/or at other times as reasonably requested by the DEH.

9.0 **Validity of Consent**

- 9.1 Subject to condition 9.2 below this Consent will remain valid until the Works are completed.
- 9.2 The Director of Environmental Health may from time to time following an application in writing from the applicant or otherwise waive amend or vary the terms of this Consent. Any variation so permitted shall not be a breach of this Consent.
- 9.3 The Director of Environmental Health may in giving the approval of the Council under this Consent impose such conditions as he shall specify in writing.
- 9.4 This Consent:-
- a) Does not of itself constitute any ground of defence against any proceedings instituted under Section 82 of the Environmental Protection Act 1990.
 - b) Is granted solely on the basis of the information given in your application together with any additional information provided by you in writing.
- 9.5 You have a duty to bring this Consent to the notice of anyone carrying out work on site or delivering to the site in connection with the Works.

- 9.6 Any person who knowingly carries out the works or permits the works to be carried out in contravention of any conditions attached to this Consent shall be guilty of an offence against Part III of the 1974 Act and on summary conviction shall be liable;
- a) In the case of a first offence to a fine not exceeding level 5 on the standard scale.
 - b) In the case of a second or subsequent offence to a fine not exceeding level 5 on the standard scale together, in any case, with a further fine not exceeding £50 for each day on which the offence continues after conviction.
- 9.7 Your attention is drawn to your rights of appeal against this Consent which are set out in the notes.

DATED

Signed

Nicholas Austin
Director of Environmental Health
(The officer appointed for this purpose)

Environmental Health Services
Council Offices, 37 Pembroke Road
London W8 6PW

(Address to which all communications should be sent)

Telephone: 020-7341 xxxx - Case Officer

SAMPLE

APPEAL NOTES

The Control of Noise (Appeals) Regulations 1975 provide as follows:

Appeals under Section 61(7)

6. (1) The provisions of this regulation shall apply to an appeal brought by any person under subsection (7) of Section 61 (prior consent for work on construction sites) in relation to conditional consent given by the Local Authority under the Section or in relation to an Authority's refusal or failure to give a consent within the period specified in subsection (6) of that Section.
- (2) In this regulation "conditional consent" means a consent given by a Local Authority under Section 61 in respect of which the Local Authority have attached any condition or imposed any limitation or qualification in pursuance of Section 61(5)(a), (b) or (c); and "conditions" includes any limitation or qualification so imposed.
- (3) The grounds on which a person to whom a Local Authority give a conditional consent may appeal under the said subsection (7) may include any of the following grounds which are appropriate in the circumstances of the particular case:
 - (a) that any condition attached or imposed in relation to the consent (in this regulation referred to as "a relevant condition") is not justified by the terms of Section 61;
 - (b) that there has been some informality, defect or error in, or in connection with, the consent;
 - (c) that the requirements of any relevant condition are unreasonable in character or extent, or are unnecessary;
 - (d) that the time, or where more than one time is specified, any of the times, within which the requirements of any relevant conditions are to be complied with is not reasonably sufficient for the purpose.
- (4) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the consent, the Court shall dismiss the appeal, if it is satisfied that the informality, defect or error was not a material one.
- (5) Where the appeal relates to a conditional consent given by a Local Authority, on the hearing of the appeal, the Court may:
 - (a) vary the consent or any relevant condition in favour of the appellant in such manner as it thinks fit, or
 - (b) quash any relevant condition, or
 - (c) dismiss the appeal;
 - (d) and a consent or condition which is varied under sub-paragraph (a) above shall be final and shall otherwise have effect, as so varied, as if it had been given, attached or imposed in that form by the Authority.