



**South Somerset District Council**

# **Guidance on completing an application for prior consent**

**Noise from Construction and demolition sites**

**Control of Pollution Act 1974 (s.61)**

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*This document is written to serve as an informative and a helpful source of advice. Readers must note that legislation, guidance and practical methods may be subject to change. The Council has taken all reasonable precautions to ensure the information is correct. However, the Council, its officers, servants, or agents, will not accept any liability for loss or damage caused by any person relying on this information, or for any errors or omissions in the information provided.*

## 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 we have received the application we will issue consent within 28 days of receipt of the application.

The consent will either be:

- Accepted in its entirety;
- Accepted but with additional and/or amended conditions imposed;
- Refused.

## **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 have any further questions please do not hesitate to contact the Environmental Protection Team on 01935 462462 or [enhpollution@southsomerset.gov.uk](mailto:enhpollution@southsomerset.gov.uk)**

## **FAQ**

### **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?**

#### **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.

#### **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.

#### **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 by more than 3dB 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.

#### **Communication**

The contractor/promoter is required to provide information to local residents in the form of a meeting or drop in centre, prior to the works, so adequate details of the programme are given. It may be sufficient to just do a letter drop before works commence. 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 City 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.

## **Complaints**

The contractor/promoter is responsible for responding to complaints within an adequate time-frame and where appropriate providing details of corrective action taken. Details (the results of the investigation, action taken and information provided to the complainant) of such complaints shall be made available to us upon request.

## **Hours of working**

In general the normal working hours are Monday to Friday 7.30am–6pm, Saturday 8.30am–2pm (No working allowed on Bank Holidays and Sundays). Works outside of these hours are only agreed if there are health and safety and operational constraints and clear justification is provided.

## **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.

The noise trigger levels must be exceeded at the relevant property for at least:

- Ten 'periods' during any consecutive 15 day period (if the noise insulation trigger level is exceeded during both a day and a night time period this will count as two separate 'periods' for the consideration of eligibility).

Or

- Forty 'periods' during any consecutive six month period (if the noise insulation trigger level is exceeded during both a day and a night time period this will count as two 'periods' for eligibility consideration).

We do not have any powers to enforce or control the administration of the project's own policy. The contractor/promoter will however submit their plans to us identifying those local residents being offered the additional mitigation.

**CONTROL OF POLLUTION ACT 1974**  
**Application Form for Section 61 Consent**

<b>Title:</b>	
<b>Reference:</b>	

To: **South Somerset District Council**

**I/WE HEREBY MAKE APPLICATION** for prior consent in respect of works to be carried out on the (construction) site(s) specified below, under Section 61 of the Control of Pollution Act 1974.

Signed<sup>1</sup>

Date:

.....

Print name .....

Position .....

Registered office  
address.....

.....

.....

Site office  
address.....

.....

.....

Telephone .....email.....

<sup>1</sup> where application is made by a company, the signature should be that of a director, the company secretary, or other assigned nominee and the address should be the company's registered office.

## SECTION 61 CONSENT APPLICATION

Section Heading	This column provides guidance on the type of information we expect to receive. A summary should be provided in the table below, but the details should be submitted in an appendix that matches the section heading number.												
1. Address or location of proposed works	A site location plan must be included to a scale not less than 1:500 showing site boundaries, noise monitoring locations and nearest residential or sensitive noise receivers.												
2. Name and address of main contractor / site contacts	<p><u>Contacts:</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Contractor 24 hr Telephone Helpline</td> <td style="width: 50%;"></td> </tr> <tr> <td style="padding: 5px;">Project Manager Stage 1 Stage 2 Stage 3</td> <td></td> </tr> <tr> <td style="padding: 5px;">Construction Managers Stage 1 Stage 2 Stage 3</td> <td></td> </tr> <tr> <td style="padding: 5px;">Contractor Environment Manager</td> <td></td> </tr> <tr> <td style="padding: 5px;">Site Manager</td> <td></td> </tr> <tr> <td style="padding: 5px;">Senior Project Manager</td> <td></td> </tr> </table>	Contractor 24 hr Telephone Helpline		Project Manager Stage 1 Stage 2 Stage 3		Construction Managers Stage 1 Stage 2 Stage 3		Contractor Environment Manager		Site Manager		Senior Project Manager	
Contractor 24 hr Telephone Helpline													
Project Manager Stage 1 Stage 2 Stage 3													
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Contractor Environment Manager													
Site Manager													
Senior Project Manager													
3. Particulars of works to be carried out	Objective of the works to be carried out under the consent, e.g. construction of new railway link bridge, associated road infrastructure and parking areas.												
4. Methods to be used in each stage of development	Provide a description of the methods to be used, e.g. Phase1 - site clearance and levelling using bulldozer and rollers; Phase 2 - piling using shell and auger-type rigs. It may be that a separate s.61 will work best for each phase.												
5. Hours of Work	<p>The permitted core working hours are Monday to Friday 07.30 to 18.00 hours, Saturday 08.30 to 14.00 hours and at no time on a Sunday or Bank Holiday. It is expected that site workers are on site no longer than 30 minutes prior to or after the core hours.</p> <p>The Council recognises that occasionally certain works may only be undertaken outside of normal hours, such as escorted load deliveries and extended concrete pours. The application should give details of any expected activities outside of the core hours together with equipment and methods used to mitigate noise. (Additional noise calculations covering this period may be required by the Council in its assessment of the proposed works).</p> <p>The Council will have to be satisfied as to the necessity of the works and if sufficient noise mitigation is incorporated.</p>												



	<p>It should not be assumed that consent will be given automatically. Should it become necessary to depart from the hours specified in the consent, a dispensation or variation shall be applied for.</p> <p>Should the works be undertaken without consulting the Council you will be at risk of enforcement action under the Control of Pollution Act 1974 (s.60)</p>
6. Type and make of equipment and machinery (including heavy vehicles) stating sound power levels	<p>To demonstrate that noise and vibration has been minimised as far as possible reference should be made to Best Practicable Means (BPM) as defined in section 72 of the Control of Pollution Act 1974.</p> <p>BPM must be employed at all times. Reference should also be made to best practice as detailed in British Standard 5228:2009 "Noise and Vibration Control on Construction and Open Sites" which should be implemented and complied with.</p> <p>Should it become necessary to depart from the steps specified in the consent, a dispensation shall be applied.</p>
7. Proposed steps to minimise noise and vibration	<p>All equipment to be used on site should be listed and referenced back to BS 5228. Sound power data should also be resourced from this document and manufacturer's specifications.</p> <p>The sound power level is a measure of the total noise radiated by the machine in all directions. It is a property of the machine and is essentially independent of the measuring environment. Regulations require manufacturers to display this level on outdoor plant and machinery (usually a numerical value accompanied with 'SWL' or 'LW').</p> <p>Occasionally it may become necessary to undertake noise monitoring. A record of any required monitoring results will be held on site available to authorised Council officers, in an agreed format.</p>
8. Calculated Noise Levels and Baseline Noise Monitoring	<p>There should be a presumption towards the use of measured noise data rather than relying on noise data provided in BS 5228. Measured data may be available from work carried out for the planning application stage of the development.</p> <p>Where noise data in BS 5228 is relied upon, the source information including assumed distances etc. must be stated.</p>
9. Duration of works	<p>Start time / date.</p> <p>Finish time / date.</p>
10. List of plans and documents attached	<p>These should be provided as an appendix.</p>

## **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 copied to the Local Authority by e-mail.

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 setting out the revised construction programme or method and the relevant noise calculation using the template in Appendix II. 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.

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.

## Dispensation from Section 61 consent

To: **South Somerset District Council**

WE HEREBY MAKE 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.....

(Signed by authorised person)

Name of applicant [Name of contractor]

Registered office of applicant [Address of contractor]

Telephone number

Email

<i>Description of works programme.</i>	
<i>Contractor Section 61 reference:</i>	
<i>Local Authority Section 61 reference:</i>	
<i>Dispensation reference.</i>	
<i>Duration of works requiring dispensation</i>	
<i>Date of works requiring dispensation</i>	

**Description of works**

<input type="checkbox"/>

*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.*

<p><i>When and how residents are to be notified.</i></p> <p><i>(copy of letter attached)</i></p>	
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**Variation from Section 61 consent**

<i>Description of works programme</i>	
<i>Contractor Section 61 reference:</i>	
<i>Local Authority Section 61 reference:</i>	
<i>Date of works requiring variation</i>	
<i>Duration of works requiring variation</i>	
<i>Variation reference.</i>	

## Description of works for which the variation is being sought

<i>Brief description of proposed work.</i>	
<i>State reasons why works cannot be done under terms of original consent.</i>	
<i>Describe any changes to hours of working.</i>	

<i>Describe BPM noise mitigation measures.</i>	
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	For [Contractor]	Approved South Somerset District Council
Name:		
Signature:		
Date:		

Subject to the following conditions