

Guidance on completing an Application for Prior Consent

SECTION 61 OF THE CONTROL OF POLLUTION ACT 1974



Introduction

If your development will have a significant impact on neighbouring premises from noise or vibration it is recommended that you apply to the Council for a “prior consent” under Section 61 of the Control of Pollution Act 1974. Alternatively you may be invited to do so by the Council 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. 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 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.

Note: A Prior Consent will not be issued if works, other than minor preparatory works, have already commenced.

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

The applicant may appeal to the Magistrates Court on the decision of the Council. For further details see paragraphs (iv) and (v) of the Additional Notes below.

Guidance Notes for the Application Form

The following information will assist you in completing each part of the application form:

1. 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, with site address, contact name and number for on-site.
3. Objective of the works to be carried out under the consent, e.g. Construction of 100 residential properties including 50 houses and two blocks each of 25 apartments, associated road infrastructure and parking areas.
4. Provide a description of the methods to be used, e.g. Phase 1 – site clearance and levelling using bulldozer and rollers: Phase 2 – piling using shell and auger-type rigs.
5. The permitted core working hours are Monday to Friday 08:00 to 18:00 hours, Saturday 08:00 to 13:00 hours and at no time on a Sunday or Bank Holiday. It is expected that site workers will be on site no longer than 30 minutes prior to or after the core hours.

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). The Council will have to be satisfied as to the necessity of the works and if sufficient noise mitigation is incorporated.

It should not be assumed that consent would be given automatically. Should it become necessary to depart from the hours specified in the consent, a dispensation shall be applied for as detailed in Schedule 1 of the application. Should the works be undertaken without consulting the Council you will be at risk of enforcement action under the Control of Pollution Act 1974.

6. 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. 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. Should it become necessary to depart from the steps specified in the consent, a dispensation shall be applied for as detailed in Schedule 1 of the application.

7. 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 manufacturers specifications. 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").

Occasionally it may become necessary to undertake noise monitoring at the reasonable request of Ipswich Borough Council. This is commonly when there is a requirement to work outside of normal hours or where complaints have arisen. A record of any monitoring results will be held on site available to authorised Council officers, in an agreed format.

Additional Notes

- i) Prior to the commencement of the works neighbouring residential and commercial premises shall be leafleted. The leaflet should contain a contact name and number for enquiries and complaints, details of the works and their likely duration. A leaflet 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;
- ii) Where consent is given for works outside of the core hours, the Council shall be given a contact name and mobile number of the site foreman overseeing the works. Additional leaflet drops will be required to notify neighbouring properties of any such extraordinary works outside of the permitted hours when required (see Schedule 1).
- iii) If the Council does not give consent within 28 days or the Council attaches any condition to a consent, the applicant may appeal to a magistrate's court within 21 days thereafter.
- iv) If an appeal is made, on hearing the appeal the court will allow the applicant (or appellant) and the Council to make a representation to it concerning the application made under section 61(1) of the Control of Pollution Act 1974. This will concern the terms and conditions of any consent which they may consider to be appropriate and the court shall either:
 - a) Adjourn the appeal to enable the appellant to submit to the authority a new application under section 61(1) relating to the matters which are the subject of the appeal, or
 - b) Make an order giving consent to the application either unconditionally or subject to such conditions as it thinks fit, (having regard to the provisions of section 61(4), (5) and (9) of the Act) and any other matters which appear to the court to be relevant.

Any consent given by an order made under sub-paragraph (b) above shall be final and shall have the same effect as if it were a consent given by Ipswich Borough Council.

If you have any further questions please do not hesitate to contact the Environmental Enforcement team on 01473 433110 or write to:

Environmental Protection (Enforcement Team)
Ipswich Borough Council
Grafton House, 15-17 Russell Road
Ipswich Suffolk
IP1 2DE
www.ipswich.gov.uk

CONTROL OF POLLUTION ACT 1974

Application form for Section 61 Prior Consent



To: Environmental Protection (Enforcement Team)
Ipswich Borough Council
Grafton House, 15-17 Russell Road
Ipswich Suffolk
IP1 2DE

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

Signed: _____ Date: _____

Print name: _____

Address of Applicant: _____

<p>1. Address or location of proposed works:</p>	
<p>2. Name and address of main contractor:</p>	
<p>3. Particulars of works to be carried out:</p>	
<p>4. Methods to be used in each stage of development:</p>	

<p>5. Hours of work:</p>	
<p>6. Number, type and make of equipment and machinery (including heavy vehicles) stating Sound Power Levels:</p>	
<p>7. Proposed steps to minimise noise and vibration:</p>	
<p>8. Predicted noise levels:</p>	



<p>9. Approximate duration of works:</p>	
<p>10. Site plan (to be attached):</p>	
<p>11. Other information:</p>	
<p>12. List of plans and documents attached:</p>	