

[local authority]

CONTROL OF POLLUTION ACT 1974 - SECTION 61

PRIOR CONSENT FOR WORK ON CONSTRUCTION SITES

To:

Copy to

WHEREAS you have made an application dated XXXX for prior consent under Section 61(1) of the Control of Pollution Act 1974 in respect of works described in Section 3 of the application at XXXX], or between chainages (xxxxxxx, xxxx) insofar as the works which lie within the boundaries of the [local authority],

CONSENT is HEREBY GIVEN by the [local authority] (hereinafter referred to as the "Council"), subject to the following conditions:

- 1. Construction activities shall only be carried out between the hours specified below.

Monday – Friday (excluding Public Holidays) 08:00-18:00 hours

Saturday 08:00-13:00 hours

There shall be no working on a Sunday or Bank Holiday or outside the hours above, save for those listed in Section 5 of the section 61 application (ref xxxxx).

Exceptions are provided in the following conditions of this consent,

- 2. Details of any site activities that cannot comply with 1 above shall be submitted to the Council in accordance with the procedures detailed in Schedule 1 attached.

- 3. To maximise the work that can take place within the above prescribed core working hours and/or for reasons of health & safety or engineering practicability, the following concessions are granted:

a) Enabling activities (start up and shut down)

May take place between 07:00 – 08:00 and 18:00 – 19:00 Monday – Friday (excluding Public Holidays), and 07:00 – 08:00 and 13:00 – 14:00 Saturday, but only insofar as described in Section 2, Appendix III of the application. Enabling works are, as far as reasonably practicable, to take place immediately prior to 08:00, or immediately after 18:00/13:00 (as appropriate) and are to be confined to those listed in Section 5 and Appendix I of the application.

b) Critical preparatory work and repairs or maintenance of plant only may take place between XX.XX and XX.XX on [specify day(s)] Maintenance activities are to be confined to those described in Section 5 and Appendix I of the application.

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c) Abnormal or unusual enabling activities (including the movement of abnormally wide or heavy loads) are permitted subject to notification of the Council as soon as is reasonably practicable,

d) Railway Possessions/Highways.

It is recognised that certain works require [temporary possession of railways for safety or operational requirements] [interference with highways to limit disruption to road users] or the travelling public [works in connection with utilities when demand is low] will need to be undertaken outside of core working hours. This may include Saturday afternoon, night time, Sunday and/or bank holiday working from time to time. On occasion longer term possessions (in excess of one week) will be required for major works. The works described in Appendix I of the application are permitted, subject to the activity information described in Section 5 being submitted to the Council in advance of each possession period and occupiers who may be affected by noise from the works are notified in accordance with Condition 11 below.

e) Staff may collect data and samples outside of core working hours, as described in Section 5 and Appendix I and in accordance with programme in Appendix III of the application

f) It is recognised that bored/CFA piling operations may need to overrun; these occasions will be kept to a minimum and notified to the Council through the overrun notification procedure.

g) In order to maximise the daylight hours available and periods of good weather, earthworks may be permitted to take place between 07.00 and 22.00, Mondays to Fridays, between 1 April and 30 September, subject to the submission of a Section 61 variation. Where such extended hours are allowed, no additional time is allowed for enabling (start up and shut down) activities.

In determining whether the extent of the use of these concessions is reasonable or not, the Council will have regard to the premise that these enabling activities are not to be regarded as an extension of the normal working day and particular care is to be taken to limit and control disturbance to local residents during such periods.

4 24 hour 7 day per week activities

It is recognised that following activities will normally take place on a 24hr per day, 7 day per week basis as described in Sections 4 and 5 of the s.61 application, but only insofar as the works described in Appendix I and in accordance with programme in Appendix III.

- a) Tunnelling works together with directly associated activities such as maintenance of tunnelling equipment, construction of cross passages and installation of tunnel linings.
- b) Delivery of materials, consumables and plant to the tunnel face from the drive portal or access shaft and for tunnel fit out by train from tunnel logistics sites at Aldersbrook and Old Oak Common.
- c) Transportation, storage and removal of excavated material by conveyor and rail.
- d) Tracklaying and internal fit out works within the stations, shafts and tunnels (including construction of the trackbed and cable laying).

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- e) Operation and maintenance of items of plant and equipment needed in order to safeguard and support the works, such as fans, compressors, pumps, generators and batching plant. Any such equipment will be shielded in order to provide appropriate noise attenuation
 - f) Staff may also be required to collect data and samples outside of core working hours
 - g) Surface support to underground work, including welfare facilities, crange, workshops and stores.
 - h) In order to safeguard the works certain items of plant and equipment such as pumps and generators may be operated 24hrs per day. Best practicable means is to be taken to ensure that residents of the area are not disturbed by noise from the pumps (including the use of enclosures, barriers etc where appropriate).
5. The plant and equipment specified in Section 6 and Appendix II of the application shall be used to carry out the works in accordance with the Method to be Used detailed in Section 4 and Appendix I of the application. The applicant may substitute an alternative item or use additional items of plant or equipment and will use the best practicable means to ensure that the effective sound power level is equivalent, similar or lower than that stated in the application.
 6. Best Practicable Means (BPM), as defined in Section 72 of the Control of Pollution Act 1974, shall be employed at all times to reduce noise (including vibration) to a minimum, with reference to the general principles contained in British Standard BS5228: 2009 'Code of practice for noise and vibration control on construction and open sites, Parts 1 and 2'. The steps taken to minimise noise and vibration as detailed in Section 7 and Appendix 7 of the application shall be adhered to at all times.
 7. The applicant shall carry out noise and vibration monitoring as agreed with the Council in accordance with the protocols described in XXXX. The results of such monitoring shall be sent to the undersigned [within * weeks of the monitoring date][every * weeks].
 8. The applicant shall ensure that a staffed telephone enquiry line is maintained at all times when site works are in progress to deal with enquiries and complaints from the local community. The telephone number (and any changes to it) shall be publicised widely in the local community affected by the works. It shall also be notified to the undersigned.
 9. All site staff are to be inducted on the potential impact on the surrounding community of noise from site activities. The induction is to cover general principles of Best Practicable Means (BPM) pertaining to all site activities, highlight any particular sensitive receptors, draw attention to potentially high impact activities and particular precautions to be taken, and stress the importance of complying with any operational restrictions concerned with controlling noise impact, particularly whilst carrying out enabling activities and carrying out work outside core hours permitted by this consent.
 10. The applicant shall nominate staff (or an agent acting on its behalf) who shall be responsible for noise monitoring where appropriate & control during the period of this consent. The name of the nominated person shall be provided to the local authority as

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soon as reasonably practicable. Nominated staff shall have the authority to take the steps necessary to ensure the conditions in this consent are complied with.

11. Occupiers who may be affected by noise from the works shall be notified of the nature of the works, a contact name, telephone number (including that to be used outside normal working hours), and address to which any enquiries should be directed. Such notification shall take place, where possible, 2 weeks but, in any event, at least a week prior to the works commencing. The Council shall be consulted on the wording of the notification and the proposed distribution list. A copy of the final notification, together with its distribution list, shall be sent to the undersigned at the time of distribution.
12. If a complaint is received in relation to noise and vibration it will be investigated by the appropriate Crossrail worksite personnel. Once the incident has been investigated appropriate mitigation measures incorporating best practicable means will be applied if necessary. Further noise monitoring will also be undertaken if appropriate.
13. Once the works have commenced if a significant breach of the consent conditions has occurred, details of the breach shall be submitted to the local authority as soon as reasonably practicable, together with reasons for the breach and the measures that have been taken to prevent a recurrence.
14. This consent will be valid from XXXX to XXXX or until the completion of the works hereby consented, whichever is the sooner.

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THIS CONSENT

- A. RELATES ONLY TO THE INFORMATION GIVEN IN YOUR APPLICATION, TOGETHER WITH ANY ADDITIONAL INFORMATION PROVIDED IN WRITING WHICH FORMS PART OF THIS CONSENT, AND
- B. MUST BE NOTIFIED TOGETHER WITH ANY CONDITION SPECIFIED ABOVE BY THE APPLICANT TO ANY OTHER APPROPRIATE PERSON CARRYING OUT ANY SUCH WORK ON THE SITE, AND
- C. IS GIVEN IN RELATION TO THE PROVISIONS OF SECTION 61 OF THE CONTROL OF POLLUTION ACT 1974. IT MUST NOT BE TAKEN TO REPLACE ANY RESPONSIBILITIES YOU MAY HAVE UNDER THE CROSSRAIL ACT 2008, WORKPLACE HEALTH & SAFETY LEGISLATION, OR ANY OTHER LEGISLATIVE REQUIREMENTS.

If you knowingly carry out or permit to be carried out works in contravention of any conditions attached to this consent you will be guilty of an offence under Part III of the Control of Pollution Act 1974. On summary conviction will be liable to a fine not exceeding Level 5 on the Standard Scale of fines* together in any case with further fines not exceeding £50 for each day on which offence continues after conviction.

This consent is authorised by`

.....
 [Name]
 [Designation] *Officer appointed for this purpose*
 Dated XXXX

[Local authority]
[Address]



Fax
E-mail

The Local Authority draws attention to:

Section 61(5)(b) of the Control of Pollution Act 1974 and may vary this consent due to any changes in circumstances

The Crossrail Project's commitments regarding Sound Insulation and Temporary Re-Housing as set out in the Information Paper D9.

The predicted noise levels in Appendix 10 of the application, to which regard will be had in assessing whether BPM is being employed.

The term 'noise' includes airborne noise, groundborne noise and vibration

* Currently £5,000 (subject to alteration by Order)

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SCHEDULE 1

Dispensations

Where the proposed works have to be changed from the original programme as given in the application to require operations outside the terms of this Consent, the Applicant shall apply to the Council in writing for a Dispensation at least 14 days in advance of the proposed operation submitting the following:

- Details of the operation in question
- Reasons why the operation cannot be carried out within the terms of the Consent
- Proposed working hours
- Predicted noise and vibration levels at relevant locations
- Proposed steps taken to reduce noise and/or vibration to a minimum

Where the working method and proposed mitigation is deemed to be acceptable to the Council, a Dispensation varying the terms of this Consent will be issued in respect of the proposed activities. The Dispensation may be issued subject to specific conditions and may be time limited subject to review. Occupiers of nearby residential or other noise sensitive properties who are likely to be affected shall be informed as soon as reasonably practicable by the Applicant about this and, where appropriate, the likely duration of the works.

Where dispensation is required for works of a critical nature for reasons not envisaged and beyond the control of the applicant (such as key activities likely to delay other key activities) the applicant shall apply in writing 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.

Variations

Variation to the works featured in the consent application may be necessary as work progresses, for a variety of reasons. Variations are used where the rescheduling of works is of a critical nature (such as a key activity likely to delay other key activities) and/or additional activities that were not included in the original application are required, and in both cases do not materially affect the predicted noise levels. In these circumstances, it is not necessary for the Applicant to provide the details commensurate with an application for a dispensation. A form has been devised allowing the Applicant to confirm by e-mail or fax relevant details to the Council. The application is to be received by the Council where practicable 7 days, but at least 2 working days, ahead of the start of the works for which the application is made. If the Council approves the application, the document will be countersigned and e-mailed or faxed back to the Applicant with conditions, if appropriate. Occupiers of nearby residential or other noise sensitive properties who are likely to be affected shall be informed as soon as reasonably practicable by the Applicant about this and, where appropriate, the likely duration of the works.

Notification of an Overrun

Where it becomes apparent that pre-planned construction works not covered by dispensation/or variation from this consent is going to run after the consented hours, the applicant shall notify the Environmental Health Service of the Council on one of the following telephone numbers – XXXX, or XXXX and confirm this using the overrun notification proforma,

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which is to be faxed to the Environmental Health Service of the Council on XXXXX9 or XXXXX. or e-mailed to the undersigned.

The Council countersigns the document confirming its receipt and e-mails or faxes it back to the Applicant. It should be noted that, unlike the dispensation and variation procedures, this is not an approval process but has effect as a temporary extension to the hours of working specified in this consent which has effect only so far as it arises from sound engineering or health and safety reasons. If the Council subsequently determines that the overrun was not for sound engineering or health and safety reasons and could have been avoided, the matter will be taken up with both the Applicant and Nominated Undertaker as being a potential breach of this Consent. For example a legitimate overrun may occur where pouring concrete takes longer than planned due to equipment failure or where unexpected poor ground conditions, encountered whilst excavating, require immediate stabilisation.

Emergency Works

It is accepted that construction works may need to be undertaken at very short notice in response to an emergency situation, or where works if not completed, would be unsafe or harmful to the permanent works. In this case the council is to be informed as soon as reasonably practicable via the nominated emergency contact of the reasons for and likely, duration of the works. It should be noted that, unlike the dispensation and variation procedures, this is not an approval process. If the Council subsequently determines that the emergency work was not for sound engineering or health and safety reasons and could have been reasonably avoided, the matter will be taken up with the Applicant as being a potential breach of this Consent.

[local authority]**INFORMATION CONCERNING APPEALS**

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

Appeals under Section 61(7) of the Control of Pollution Act 1974 (as amended by the Crossrail Act 2008)

1. The provisions of this regulation shall only apply to an appeal brought by any person under sub-section (7) of Section 61 (prior consent for works on a construction site) in relation to a conditional consent given by the Local Authority under that Section or in relation to an Authority's refusal or failure to give a consent within the period specified in sub-section (6) of that Section (see Note below).
2. In this regulation "conditional consent" means a consent given by the 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 sub-section (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 (hereinafter 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 condition are to be complied with is not reasonably sufficient for the purpose.
4. If and so far as an appeal is based upon the ground of some informality, defect or error in, or in connection with, the consent, the Secretary of State shall dismiss the appeal, if he is satisfied that the informality, defect or error was not a material one.
5. Where the Secretary of State relates to a conditional consent given by a Local Authority, on the hearing of the appeal, the Secretary of State may -
 - (a) vary the consent or any relevant condition in the favour of the appellant in such a manner as it thinks fit, or
 - (b) quash any relevant condition, or
 - (c) dismiss the appeal;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 Local Authority.
6. If within seven days of the giving of notice of appeal the appellant and the local authority so agree, the appeal shall, instead of being determined by the Secretary of State, be referred to arbitration.

NOTE

An appeal must be lodged with the Secretary of State for Environment, Food and Rural Affairs within 21 days of the date of this consent