

CONTROL OF POLLUTION ACT 1974 Section 61

Variation to Prior Consent in Respect of Works on Construction Sites



To: Balfour Beatty

Of: Balfour Beatty
Network Rail Offices
263E New Cross Road (behind Sainsbury's Delivery Yard)
Lewisham
SE14 5UQ

WHEREAS you have made an application dated 23rd June 2020, for prior consent under Section 61(1) of the Control of Pollution Act 1974 in respect of works intended to be carried out at;

Site: located within the London Borough of Bromley between Birbeck and Harrington Road stations on the London TramLink Network.

Brief Description of Works

The following works are proposed to be undertaken as part of this S61 application between Birbeck and Harrington Road stations on the London TramLink Network:

- Task 1 – Compound Set-up
- Task 2 – Excavation of trial holes
- Task 3 – Prep works
- Task 4 – Formation dig
- Renewal of 647m of ballast, sleepers and running rail
- Task 5 – Deliveries – via engineer's trains from Hither Green Depot

- Task 6– Renewal of ballast, sleepers and running rail
- Task 7 – Tamping

CONSENT is **HEREBY GIVEN** by the **LONDON BOROUGH OF BROMLEY** (hereinafter referred to as the "Council") subject to the following conditions specified below:-

1. **Consent dates** - This consent shall remain **valid between 21st July 2020 and 14th March 2021** or until the works are completed, whichever is sooner, unless extended by prior agreement with an authorised officer of the Council. The Council retains the right to revise/amend this consent subject to substantiated complaints being made and/or non-compliance.
2. **Emergency situations** - Where emergency situations arise which will require deviation from the conditions listed in this consent, the Environmental Protection Team shall be notified without delay. If outside a normal weekday working hours, the Bromley Council's Out of Hours Contact Centre shall be notified without delay.
3. **Emergency contact** - A contact name and telephone number for emergency use available on a 24-hour basis shall be notified to the undersigned prior to the commencement of operations.
4. **Best practical means** - Best practicable means as defined in Section 72 of the Control of Pollution Act 1974 shall be employed at all times to reduce noise and vibration to a minimum. In employing best practicable means the steps to minimise noise and vibration contained in Appendix 3 of the application dated June 2020 shall be adopted by the contractor.
5. **Normal working hours** – Subject to Condition 6 the works, and ancillary works, described above shall only be carried out within the following working hours;

0800-1800 Monday - Friday (excluding Public Holidays)
0800-1300 Saturday

Except for a 30 minute 'shut-down' period where no noisy works shall take place between,

1800-1830 Monday - Friday (excluding Public Holidays)

The 'start up' and 'close down' periods shall not be considered an extension of normal working hours.
6. **Out of hours working** - Any works that cannot reasonably be carried out within the hours specified in Condition 5, that also do not exceed the predicted noise levels described in Section 7 of the application dated 23rd June 2020, may be undertaken outside the periods specified in Condition 5, provided they meet the noise levels and timings specified, and that this may be demonstrated if required. The EHO shall be notified of these works via electronic mail.

Note that in the event of a justified complaint of noise and vibration which the contractor is unable to mitigate using the steps contained in Section 7 and

Section VI of the application dated 23rd June 2020, the Council reserves the right to amend this condition whilst the consent remains in place.

7. **Plant and equipment** - The plant and equipment identified in Appendix 5 of the application dated 23rd June 2020 shall be used to carry out the works described above. In the event of a specific item of plant being unavailable the contractor may substitute an alternative item or additional items of plant and will use best practicable means to ensure that the effective sound power level is equivalent or similar to that previously identified.
8. **Plant and equipment continued** - In addition to condition 7 above, the contractor shall work within the principles of the British Standard 5228:2009 'Code of Practice for noise and vibration control on construction and open sites' and the IAQM's 'Guidance on the Assessment of Dust from Demolition and Construction'. The best practicable means shall be employed at all times to reduce noise to a minimum including: -

Noisy plant or equipment shall be situated as far as possible from noise sensitive buildings. Barriers (e.g. site huts, acoustic sheds or partitions) to reduce noise reaching noise sensitive buildings shall be employed wherever possible.

Noise emitting machinery, which is required to run continuously, shall be housed in suitable acoustic enclosures.

All vehicles and mechanical plant used for the purpose of the work shall be fitted with effective exhaust silencers and other mufflers where appropriate and all parts of such vehicles plant or machinery shall be maintained in good order and repair and be in accordance with manufacturers recommendations.

All compressors and generators shall be sound reduced models fitted with properly lined and sealed acoustic covers or enclosures, which shall remain closed when the machines are in use.

All machines in intermittent use shall be shut down or throttled down to a minimum in the intervening periods between works.

All vehicles servicing the site shall be fitted with white noise / broadband reversing alarms.

Where practicable rotary drills and busters actuated by hydraulic, chemical or electrical power shall be used for excavating hard or extrusive material.

Equipment, which breaks concrete by bending or by bursting, shall be used in preference to percussive tools as far as practicable.

Plant shall be maintained in a good and workmanlike condition so that extraneous noise from mechanical vibration, creaking and squeaking is

reduced to a minimum. Neither any part of the works nor any maintenance of plant shall be carried out in such a manner as to cause unnecessary noise or vibration save in case of emergency when the work is absolutely necessary for the saving of life or property or the safety of the works.

Care shall be taken when loading or unloading vehicles, erecting and dismantling plant or moving materials and plant etc. to reduce impact noise.

The applicant may substitute alternative items or use additional items of plant or equipment and shall use best practicable means to endeavour to ensure that resultant noise levels are no higher than those originally predicted in the application and /or document

9. **Construction methodology** – Section III and appendix 2 of the application dated 23rd June 2020 refers to a summary of the main work activities with a basic description of construction methodology and the basic program of works. The full method statements, as referred to, for the works shall be provided to the Environmental Protection Team.

Should it then become necessary for the contractor to depart from the construction methodology and/or program of works and introduce, for example, a new noisy activity then the Council shall be advised of any additional proposed noise mitigation.

10. **Perimeter checks** - In addition to condition 11 below, the contractor shall undertake periodic perimeter checks to monitor the noise, vibration and dust arising from operations on site, and take remedial measures as appropriate and keep records available for inspection by the Council.
11. **Monitoring programme** - As soon as the works commence on site and in the event of complaints alleging excessive noise and vibration, the applicant shall undertake appropriate short-term monitoring to ensure that adequate data is collected to enable the actual noise and vibration impact to be assessed. The results of such monitoring shall be made available to the Council upon request.
12. **Complaint records** - The contractor shall keep a record of any complaints relating to environmental matters made to the site by members of the public or officials, response given and remedial action taken
13. **General** - A copy of this permission must be kept on site at all times during the works and readily available to Council officers for inspection on request.

Before the commencement of works associated with this application, all the workforce of the main and sub-contractors employed on site shall be fully briefed on the conditions within this notice and in general the need to keep all noise generated to a minimum.

Nothing in this consent shall be construed as preventing or prohibiting the execution of works, which are absolutely necessary for the saving of life, property, or to ensure the general safety of the works programme.

THIS CONSENT 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;

NOTE the Council draws attention to Section 61 (5) (b) of the Control of Pollution Act 1974 and may vary this consent due to any change in circumstances.

NOTE this consent does not of itself constitute any ground of defence against any proceedings instituted under Section 82 of the Environmental Protection Act 1990.

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 you 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 the offence continues after conviction.

This consent is authorised by;


Public Protection Officer

Dated 17/07/20

Environmental Protection Team
Email: ehs.customer@bromley.gov.uk
Tel: 0300 303 8657
Fax: 020 8313 4450

Bromley Council, Civic Centre, Stockwell Close, Bromley, BR1 3UH

*Currently unlimited (subject to alteration by Order)

NOTES

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 Channel Tunnel Rail Link Act 1996).

- (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) (as amended) 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.
- (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 of 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) (as amended) 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 "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 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 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 *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.

SCHEDULE 1

Dispensation Procedure

Where for safety or other reasons works require operations outside the terms of this Consent, the applicant may apply for a dispensation to this Consent by applying in writing to the Council 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 the 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.

The Council will endeavour to respond to dispensation applications as soon as reasonably practicable particularly where activities are on the critical path of the project.

In the case of work required in response to an emergency (or which if not completed would be damaging or unsafe), the Council will be advised as soon as is reasonably practicable of the reasons for and the likely duration of such works.