

Ref	NR/GN/ENV/00022
Issue	2
Date	April 2004

Construction noise mitigation through the Section 61 consent process (formerly RT/LS/G/00022)

This temporary front sheet facilitates change to the new Network Rail Standards referencing nomenclature.

The Ref above will be formally allocated to this standard when it is next changed in the meantime the contents, date and issue number of this Network Rail Standard are **UNCHANGED and with immediate effect it should be referred to as “(new ref) formerly (old ref)”.**

This document is the property of Network Rail. It shall not be reproduced in whole or part nor disclosed to a third party without the written permission of the Standard Owner.

© Copyright 2004 Network Rail

Uncontrolled copy once printed from its electronic source.

Published & Issued by: Network Rail; 40 Melton Street, London NW1 2EE



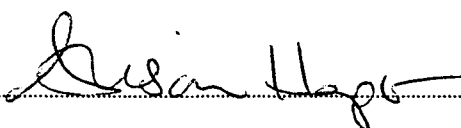
Ret	RT/LS/G/00022
Issue	2
Date	April 2004

Company Guidance Note

Construction Noise Mitigation through the Section 61 Consent Process

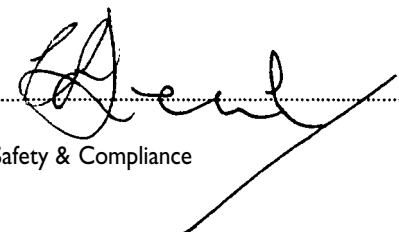
Endorsement & Authorisation

Endorsed by:



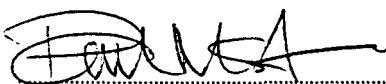
Alison Hope, Head of Environment (Acting)

Authorised by:



Chris Leah, Director, Safety & Compliance

Accepted for issue by:



P McAleer, Head of Business Standards

This document is the property of Network Rail. It shall not be reproduced in whole or part nor disclosed to a third party without the written permission of the Standard Owner.

©Copyright 2004 Network Rail

Uncontrolled copy once printed from its electronic source.

Published & Issued by: Network Rail 40 Melton Street, London NW1 2EE



Ref:	RT/LS/G/00022
Issue:	2
Date:	April 2004

Issue record

Issue	Rev	Date	Comments
1	A	July 2003	Original Document
2		April 2004	Company Re-organisation

Disclaimer

Network Rail, has used its best endeavours to ensure that the content, layout and text of this document are accurate, complete and suitable for its stated purpose. It makes no warranties, express or implied, that compliance with the contents of this document shall be sufficient to ensure safe systems of work or operation. Network Rail, will not be liable to pay compensation in respect of the content or subsequent use of this document for any purpose other than its stated purpose or for any purpose other than that for which it was prepared except where it can be shown to have acted in bad faith or there has been wilful default.

Supply

Copies of documents are available electronically, within Network Rail's organisation. Hard copies of this document will be available to Network Rail staff on request to the Document Controller and to other organisations from Technical Indexes Ltd (01344 404409)

Ref:	RT/LS/G/00022
Issue:	2
Date:	April 2004

Contents

1	Purpose	4
2	Scope	4
3	Reference Documentation	4
4	Definitions	4
5	Introduction	5
6	Section 6I Benefits	5
7	Section 6I Overview	6
8	Recommended approach for securing a Section 6I consent	6
8.1	Introduction	6
8.2	Preparatory Stage	7
8.3	Draft Consent Stage	8
8.4	Final Application Stage	8
8.5	Modifications to Consents required during the works	8
8.6	Advance Notification to Local Residents	10
9	Summary	11
10	Appendix A: Section 6I Consent Application Process	12

I Purpose

The purpose of this guidance document is to provide an overview of how the risks from construction noise can be mitigated by obtaining consent under Section 6I of the Control of Pollution Act, 1974 (COPA) and in particular the benefits of this approach and a recommended course of action for securing a Section 6I consent.

2 Scope

This guidance note applies to all contractors undertaking noisy works on the railway, which may cause a nuisance. This could be due to reasons such as the timing of the works (e.g. night-time working), the level of noise that may be produced or the proximity of local residents.

3 Reference Documentation

1. [RT/LS/G/00023](#) Best Practicable Means: Control of Noise and Vibration
2. BS 5228 Noise and Vibration Control on Construction and Open Sites: Part I Code of Practice – published by British Standards Institution 1997.
3. Planning to Reduce Noise Exposure in Construction Technical Note I38 - published by the Construction Industry Research and Information 1990.
4. Environmental Good Practice on Site – published by Construction Industry Research and Information Association (CIRIA) 1999. Tabulated references to other documentation within this code of practice, including Working Instructions, Procedures, Guidance Notes and relevant forms.

4 Definitions

S6I - Section 6I Consent

Under the Control of Pollution Act 1974 (COPA), a consent may be applied for under Section 6I of the Act. This is known as a Section 6I consent. It agrees with the local authority a set of working conditions, including working times, equipment used and maximum noise limits. The agreement is a legal document and as long as the noise limits agreed are not exceeded, the local authority will not be able to serve an abatement notice to stop the work. Network Rail Company Guidance Note [RT/LS/G/00022](#) (Construction Noise Mitigation through the Section 6I Consent Process) provides more detail on the benefits of the Section 6I approach and how to make an application.

BPMs - Best Practicable Means:

Best Practicable Means are measures taken to mitigate the effects of noise and vibration generated by essential works programmes. They are a key feature of the Section 61 consent process which places the explicit requirement upon the contractor to employ best practicable means. BPM's legal definition, as set out in Section 72 of the Control of Pollution Act 1974, incorporates two essential elements:

- **practicable** - this is defined as reasonably practicable having regard, among other things, to local conditions and circumstances; the current state of technical knowledge; and to financial implications; and
- **means** - these are the means to be employed, including the design, installation, maintenance, manner and periods of operation of plant and machinery; and the design, construction and maintenance of buildings and structures.

In practical terms, BPM attempts to strike a manageable balance between the operational imperatives of the contract works proceeding unhindered, and the need to employ reasonable care to mitigate the environmental impacts (in this case from noise and vibration) arising from the works in order to protect the interests of those in the immediate vicinity.

COPA

Control of Pollution Act 1974

5 Introduction

Noise & vibration impacts from construction and maintenance activities on the Network Rail controlled infrastructure can represent a major risk to the completion of these works to time and budget. If these impacts are deemed to be unacceptable by a Local Authority (usually driven by complaint), the works may be subject to a Section 60 notice (Control of Pollution Act 1974) with corresponding fines, possibly on a daily basis. In extreme cases the ultimate sanction of an injunction (in effect a “stop” notice via a court order) may be obtained preventing work from taking place. Private nuisance actions can also be pursued under Section 82 of the Environmental Protection Act by individuals or organisations.

This guidance note sets out in simple terms how these risks can be mitigated by obtaining consent under Section 61 of the Control of Pollution Act, 1974 (COPA) and in particular, the benefits of this approach and a recommended procedure for securing a Section 61 consent.

6 Section 61 Benefits

- I. It places Network Rail and its Contractors in the “driving seat” in terms of managing the works and ensures that any noise (and vibration) conditions are known in advance. By setting out the work plan in advance as part of the S 61

procedure, contractors cannot subsequently issue counter-claims for additional costs.

2. If properly managed the process will reduce (or minimise) any undue delays to the works programme.
3. Through a process involving advance discussions/negotiations with the local authorities, the procedure will 'tie' local authorities into the agreed Consent conditions and these will inform the manner in which public complaints are dealt with by the local authority
4. By taking the initiative in applying for Section 61 consents, it can be seen as protection (an insurance policy) against subsequent Section 60 statutory actions assuming the conditions of the consent are complied with. It also provides protection against any injunctions invoked by the local authorities or private actions under Section 82 of the Environmental Protection Act.
5. Where all parties know, in advance, where they stand this should avoid unnecessary and costly last-minute litigation.

7 Section 61 Overview

The primary means of mitigating the risk of a Section 60 notice being served is to seek a consent under S 61 of Control of Pollution Act 1974. This needs to be sought well in advance of the works i.e. normally a minimum of 6-8 weeks should be allowed for this process. As part of this process Network Rail and its contractors will be forced to think through the works in detail including the type of plant to be used, the methodology, hours of working and most importantly the mitigation measures that need to be accommodated as part of the works to control noise and vibration.

These considerations will help demonstrate that "Best Practical Means" (BPM), as defined by Section 72 of COPA have been adopted as part of the works. It is a requirement for obtaining Section 61 consent that BPM can be demonstrated.

8 Recommended approach for securing a Section 61 consent

8.1 Introduction

There should be a presumption to prepare a Section 61 application, refer to Contract Requirements – Environment ([RT/LS/S/015](#)), unless there is good justification for not doing so, and such explanations should be recorded/reported. Examples of where a S 61 may not be appropriate are as follows:

- where there is insufficient time to go through this process i.e. less than 6-8 weeks notice of the works;
- where the works are of sufficiently short duration to render the S 61 consent of no practical effect or;

- where there are no residential (or other noise sensitive properties) in the immediate vicinity; or
- where there is an alternative arrangement with a local authority.

Where a Section 61 is not applied for, advance notification of the works should be given to the relevant Local Authority identifying the nature and scope of the works. In addition local residents (occupants as relevant) should be notified in advance of the works. It is essential that Best Practicable Means (BPM) is employed as part of the works and the approach should be discussed and agreed with the relevant Local Authority [see Note 1].

The Section 61 process is in essence a collaborative effort which is led by the contractor but involving the project team and the local authority (normally a representative from the Environmental Health Department).

8.2 Preparatory Stage

At the outset the project team should appoint a person with appropriate experience in construction noise and vibration and experience in dealing with Section 61 Applications. The necessity to seek advice from external noise specialists will depend on the scale and complexity of the work to be carried out. The nature and scope of the works programme must be identified and a method statement prepared. These should follow the principles set out in the Contract Requirements-Environment ([RT/LS/S/015](#)) and more specifically the Noise and Vibration Management Plan that is part of the Requirements.

The noise specialist should assess the noise and vibration impacts of the works and undertake the necessary noise calculations [see Note 2]. Appropriate mitigation measures including selection of plant/activities and screening may be identified at this stage. Where maintenance or construction work is likely to continue for a significant period of time in any one location i.e. 1 month or more and noise levels are significant, consideration may need to be given to noise insulation, particularly if as result of the works, properties are eligible for insulation under the Noise Insulation Regulations¹ (N.B. at least 3 months lead time will need to be allowed for if a noise insulation is required).

During the preparatory stage (allow 21 days), the design manager/construction manager should identify, in precise terms, the nature of the construction activity for which consent is being sought. This will incorporate the necessary plans, a method statement in which working practices and any assumptions made (including hours of work, need for possession of track etc), type of plant and specification of equipment etc.

¹ The Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996

Ref:	RT/LS/G/00022
Issue:	2
Date:	April 2004

A baseline noise survey may be required at this early stage in order to establish ambient noise levels prior to the commencement of works.

8.3 Draft Consent Stage

Having received comments and feedback from all internally interested parties a draft Section 61 application should then be prepared utilising a standard format that includes predicted noise levels (see Appendix A).

The project team should enter into informal discussions with the local authority prior to the submission of the draft S 61 application. Such discussions will ensure agreement to be reached on issues such as the works programme and methods of working i.e. hours of operation, plant and equipment etc. and in particular the BPM to be adopted.

The draft application should be submitted to the relevant local authority [see Note 3] for comment and in particular, they should be asked to raise any specific concerns at this stage. They should also be asked to provide draft conditions, for the works set out in the draft S 61 application. This stage will normally take approximately 14 days.

8.4 Final Application Stage

The draft consent conditions should then be fed back to the project team and the acoustic specialist to review. Where specific conditions cannot be accommodated there may be a need for further discussions/negotiations with the local authority with the aim of achieving a consensus and an operating regime which is acceptable to all parties.

Once these discussions are complete a final application should be prepared taking account of any concerns/issues raised by the Local Authority, which is then signed off by the Project Manager before submission to the local authority [see Note 4]. This is the formal part of the process.

All affected residents should be notified in the form of a statement describing the nature, scope and timescales of the works programme in parallel with the submission of final application. The relevant local authorities should receive copies of these notifications.

8.5 Modifications to Consents required during the works

Once construction works are under way, there may be a need to vary the consent for a variety of reasons. These changes can take two forms either a dispensation and/or a variation as appropriate.

8.5.1 Dispensations

Dispensations will cover all major changes to agreed working methods as set out in the programme of the S 61 application, including consistent and major

over-runs. Examples include protracted changes to working hours to accommodate the need to acquire possession of the track, use of different items of major plant or equipment, substantial changes to working methods etc. Applications for dispensations should be made to the relevant local authority on the standard form, preferably 14 days in advance of the proposed works, or such other time as is deemed appropriate in consultation with the Local Authority.

The following essential information should be included in the application:

Specific details of the works in question

- Reasons why the works cannot be undertaken within the terms of the original Section 61 consent
- Proposed hours of working
- Predicted noise and vibration levels at identified receptor positions
- Controls to mitigate the noise/vibration impacts of these works i.e. bpm measures.

If the details of the revised working are acceptable to the Local Authority, a dispensation will be issued which has the effect of varying the terms of the original consent as these relate to the specific works activities in question. The issued dispensation may include its own specific conditions and may prescribe a finite time period after negotiations with Network Rail or the contractor.

8.5.2 Variations

These address minor changes in working methods e.g. substitution of individual items of plant and sporadic over-runs, for example to accommodate discrete concrete pouring operations. Under such circumstances it is envisaged that the minor changes in question will not materially influence the predicted noise levels as submitted with the original Section 61 consent application.

Owing to the nature of the changes i.e. short timescale, small modification to working methods etc., it should not usually be necessary to submit the same level of detail associated with an application for a dispensation, as outlined above.

Applications for variations to the original consent should be made to the relevant local authority on the standard form as soon as it is practicable to do so i.e. 2 working days ahead of the proposed works, where this is practicable. To expedite matters the form should be faxed to the Local Authority office. Where the application is approved, the form will be counter-signed and faxed back together with conditions, if appropriate.

8.6 Advance Notification to Local Residents

All applications should include a statement advising how and when local residents/ local occupants likely to be affected by the proposed works will be notified of the changes to the works programme. In addition, the relevant Local Authority should be sent a copy of all such notifications when these are issued to the residents.

Notes

1. Note BPM is not a “watertight” defence under a common law action, simply because cost is not a relevant factor in the considerations of the nuisance but it will be a material consideration and is likely to be persuasive.
2. A strict hierarchy must be established in terms of noise data acquisition, with a clear preference for measured data rather than relying on data published in BS 5228. Where this is the case, information on the source and measurements must be supplied to the Local Authority to support the sound power levels quoted.

Within the information on noise calculations/predictions submitted in the S 61 application, where data on discrete items of plant and equipment are not covered by BS 5228, then the specific sound power levels quoted, together with the sources of these data and/or any measurement data obtained (including assumed distances from source) must be disclosed to the local authority.

3. Where a single project involves works to be carried out within the boundaries of more than one local authority, applications will be made to each of the relevant Local Authorities or copied to the Authority as relevant. It is envisaged that under these circumstances the Local Authorities involved will consult with each other and that the multiple consents issued will be consistent with the consent conditions required.

However, where the proposed works are wholly within a single local authority’s area, but where there is the potential for properties within adjoining local authorities to be affected), then a single application will be made to the relevant Local Authority. The contiguous Local Authorities will then be copied in on any applications made and their comments/requirements duly fed back to the applicant and copied to the authorising Local Authority.

4. This final application must be considered and approved by the local authority within a statutory period of 28 day period. If the necessary consent is not received and it is clear that difficulties remain with the local authority in issuing the consent, then the appeals procedure and/or judicial review process may be invoked.

Ref:	RT/LS/G/00022
Issue:	2
Date:	April 2004

9 Summary

Obtaining consent under Section 61 of Control of Pollution Act (1974) provides effective protection against disruption to works programmes, both in terms of time and cost. Once noise issues arise (in the absence of any Section 61 consent) these have the potential to lead to lost or wasted possessions and cost overruns can escalate very quickly. In addition, there can be considerable legal and professional fee costs involved in appealing a Section 60 notice. In general an appeal would be heard in the Magistrates Court but in an extreme case where time may not permit this, the issue may go before the High Court for a judicial review hearing, where the costs will be even greater.

The relatively minor costs of seeking a Section 61 consent and incorporating the mitigation requirements into the overall planning/design stage at the outset should be seen as the default position, (refer to [RT/LS/S/015](#) Contract Requirements – Environment) and it should be incumbent on the Project Manager to justify fully any decision not to seek a Section 61 consent, which should be reported as a matter of record.

10 Appendix A: Section 61 Consent Application Process

Contents

1.	Overall Strategy	12
1.1	Three Stage Process	12
1.2	An Open Approach	12
1.3	Prior Planning	12
1.4	Best Practicable Means	12
1.5	Consent Packages	13
1.6	Tracking Schedules	13
2.	Preparatory Stage	13
3.	Draft Stage	14
4.	Final Stage	15
5.	Implementing The Consent	16
5.1	Advance Notification To Local Residents And Occupants	16
5.2	Commencement Of Works	17
5.3	Compliance Monitoring	17
6.	Modifying The Consent	17
6.1	Introduction	17
6.2	Dispensations	17
6.3	Variations	18
6.4	Notification To Local Residents/Occupant	18
7.	Sample Documentation	18
	Sample Document 1. Proforma S 61 Application Form	19
	Sample Document 2: Completed S 61 Application (Specimen)	34
	Sample Document 3: Application Form for Dispensation	52
	Sample Document 4: Application Form for Variation	56
	Sample Document 5: Model Letter of Prior Notice to Residents	60
	Sample Document 6: Tracking Schedule for Application	64
	Sample Document 7: Tracking Schedule for Consents	68
	Sample Document 8: Consent Sign-off Form	72
	Sample Document 9: Compendium of Standard Consent Conditions	75

I. Overall Strategy

I.1 Three Stage Process

The securing of Section 6I consent involves three basic stages, which are outlined below and illustrated in the accompanying process flow diagram, Figure 1. These are the Preparatory and Draft Stages, which are informal, voluntary and non-statutory, followed by the Final Stage, which is a formal statutory process. The process of obtaining the consent should be the prime responsibility of the contractor throughout, although acoustics experts may need to vet such applications in advance of submission and provide guidance, as necessary.

There are significant advantages in preparing and submitting a draft application to the local authority. Firstly, it should mean that when the final consent is issued, there should be “no surprises”, with the conditions imposed being both realistic and attainable. Secondly, by investing the time and effort in negotiating a draft consent with the local authority, it should mean that the aforementioned conditions will be acceptable to the project team. This should remove the need for formal appeals through the courts, which would impose significant costs and delays on the works programme.

I.2 An Open Approach

The consent process is, by its very nature, predicated upon an open and collaborative partnership between the contractor (the project manager, environment manager and acoustic expert if necessary), the employer’s representative and the respective local authority. It is assumed that the approach, as outlined in this guidance note including the procedures, will be followed when securing any Section 6I consent for works.

I.3 Prior Planning

The process involved in obtaining Section 6I consent from the local authority can be demanding and complex. It is therefore imperative that the project works team takes full account of noise and vibration issues early on in the planning process and designing the works programmes. Contractors should allow a minimum of three months to obtain a Section 6I consent or six months or longer where noise insulation to properties is likely to be required.

I.4 Best Practicable Means

A commitment to adopting Best Practicable Means (BPM) is an integral part of any Section 6I application and this must be fully demonstrated as part of the application. Due regard will be had to predicted noise levels in determining whether BPM has

been employed in practice. (Please see the separate Environmental Guidance Note, Best Practicable Means: Control of Noise and Vibration from Construction Operations)

1.5 Consent Packages

With complex works programmes, it will be necessary for separate applications to be made for individual, discrete packages of work, e.g. site investigations, site clearance etc. In many circumstances, there may be a good deal of overlap with regard to such work, which may be carried out simultaneously. In such circumstances, it is imperative that the cumulative noise impacts of each discrete package be considered thoroughly and that the BPM mitigation measures fully address this issue. Regard should also be had to other projects in adjoining areas or other major developments that may coincide with the relevant works.

1.6 Tracking Schedules

Tracking schedules shall be maintained by the contractors to:

- identify the progress of each Section 61 application prior to consent (see Annex 6);
- record, for each works package, the status of every consent (see Annex 7).

2. Preparatory Stage

During the preparatory stage, which is likely to span three or more weeks, the design manager/construction manager should identify, as precisely as possible, the nature of the construction activity for which consent is being sought. Information that will be required to go into the consent application includes:

- necessary plans;
- a full description of the works;
- a robust rationale for any works which need to be undertaken outside of normal working hours;
- a method statement in which working practices and any assumptions (including hours of work, need for possession of track etc) are expressly stated;
- type of plant and specification of equipment;
- noise sensitive locations and anticipated noise monitoring positions;
- a set of predicted noise levels;
- intended recipients of prior notice, etc.

Ref:	RT/LS/G/00022
Issue:	2
Date:	April 2004

In particular, consideration will need to be given to the BPM to be used to mitigate any noise/vibration impacts of the works. These should be in line with the Environmental Guidance Note, Best Practicable Means: Control of Noise and Vibration.

A programme of baseline noise monitoring may be required in order to establish ambient noise levels for the site(s), unless this exercise has been already undertaken recently and these measurements have been agreed as being representative and adequate by the local authority.

An acoustics specialist may then need to undertake noise calculations/predictions relating to the works². These calculations will identify predicted noise levels at sensitive receptors in the locality and will determine whether affected properties will be eligible for temporary re-housing or noise insulation grants. Supporting calculations may need to be forwarded to the local authority where required. At the same time due consideration will be given to the potential for incorporating noise mitigation measures into the scheme in accordance with BPM.

All internal parties should review and approve the information that will form the basis of the draft application before it can be progressed. It is essential that any method statement that is supplied for Section 6I purposes is consistent with that supplied for other approvals e.g. health and safety.

3. Draft Stage

Having received comments and feedback from all interested parties on the project team, a draft Section 6I application should then be prepared utilising the standard format (see the model application pro-forma in Annex 2). Any properties deemed to be eligible for sound insulation should be highlighted within the application. The draft application will then be passed to the employer's representative for his/her comment and authorisation.

The approved draft application should then be submitted to the relevant local authority for comment. The local authority should then be asked to provide the contractor with a set of draft consent conditions relating to the works as set out in the draft application. It is anticipated the local authority will generally respond (within about two weeks depending upon the nature and complexity of the works as well as resource availability) in the form of written comment and a draft Section 6I consent (see Annex 1). However, it should be noted that the local authorities are under no legal obligation to respond within any definitive period.

² A strict hierarchy must be established, in terms of noise data acquisition, with a clear preference for measured data, rather than relying on data published in BS 5228. Where this is the case, information on the source and the measurements must be supplied to the local authority on request to support the sound power levels quoted

Where the work is to be carried out within the boundaries of more than one local authority, applications will need to be made to each of the affected authorities. This interface should be managed to ensure consent conditions are consistent, as far as this is possible.

Where the proposed works are wholly within a single local authority area, but where one or more neighbouring authorities might be affected, then a single Section 61 application should be made to the relevant authority and a copy of the draft application should be forwarded to adjoining authorities for their comment. It follows that they should also be included in the consultation as relevant. It is vital that all interested local authorities are kept 'in the loop' throughout the whole process, for example to avoid the scenario where a local authority neighbouring the site of the works issues a notice under Section 80 of the Environmental Protection Act 1990, notwithstanding the fact that a Section 61 consent is in place from the local authority in whose area the works are located.

4. Final Stage

The local authority's comments on the draft application, including the draft consent conditions, should be circulated by the employer's representative to all relevant persons. Further discussions between the contractor and local authority may then be required to reconcile any differences or to resolve more substantial disputes³.

On the basis of further discussions, the final application can be prepared and signed off by the employer's representative before submission to the local authority. The contractor must be duly authorised to sign the application on behalf of the company (see specimen letter in Appendix 8 of a pro-forma specimen application). In the event of the works being a joint venture, the delegated authority would probably also have to be approved by the Joint Venture Board.

If the necessary consent is not subsequently received within the statutory 28-day period then it may be necessary to continue to negotiate this informally with the LA (since, for example, the delay may be occasioned by resourcing problems with the relevant LA). However, where it is clear that difficulties remain with the local authority in issuing the consent, then the appeals procedure and/or judicial review process may need to be invoked.

For the non-determination of applications, or where the inclusion of specific conditions needs to be challenged, then an appeal must be lodged with the

³ Where more substantial disputes arise between the local authority and the Employer's Representative may be required to undertake a more active role in these discussions, e.g. by invoking the Disputes Resolution Procedure [in preparation at time of writing].

magistrate's court within a period of 21 days subsequent to the expiry of the initial 28-day period. Grounds for appeal are:

- that any condition imposed is not justified;
- that there has been some informality, defect or error in connection with the consent;
- that the requirements of any condition are unreasonable in character or extent;
- that the specified time periods within which any conditions are to be complied with, are not reasonably sufficient.

The court is empowered to vary the consent, quash any condition or dismiss the appeal. In reality, any consent issued is likely to be for a fixed period of time, typically six months. In such circumstances, the process can be regarded as being circular, with the need for applications to be revised and re-submitted to the local authority, as necessary.

5. Implementing the Consent

5.1 Advance Notification to Local Residents and Occupants

It is incumbent on the contractor to notify local residents/occupants about the proposed works at least two weeks prior to the works starting on site (this is a requirement of [RT/LS/S/015](#) Contract Requirements – Environment). In some cases this will require notification in advance of receiving of the S 61 consent. This notification shall include information on the type of work to be carried out, the reasons behind it, its likely duration, hours of work and the characteristics of any potential noise together with helpline details and the complaints procedure (see model letter to residents in Annex 6). In addition, the relevant local authority should be sent a copy of all such notifications either prior to issue or at the same time as this is distributed to the local residents/occupants.

5.2 Commencement of Works

No works shall be undertaken unless the relevant (final) Section 61 consent is in place.

5.3 Compliance Monitoring

A programme of noise and, if necessary, vibration monitoring is required to demonstrate compliance with the Section 61 consent and to identify any problems. The monitoring regime should be agreed in advance with the local authority as part of the consent conditions. It must be emphasised that the principal contractor will remain vicariously liable for the actions of all sub-contractors and accordingly the principal contractor will be responsible for ensuring that all sub-contractors comply with the terms and conditions of Section 61 consents.

6. Modifying the Consent

6.1 Introduction

Once construction works are under way there may be a need, for a variety of reasons, to have the terms of the original consent modified. These changes will take two forms depending on their nature and extent: a dispensation or a variation. However, in all cases, reasonable justification for the changes will need to be provided.

6.2 Dispensations

A dispensation should cover all material changes to agreed working methods as set out in the programme of the Section 61 application, including persistent or substantial over-runs. Advice should be sought where there is any doubt as to what constitutes 'material change'. Examples might include extensions to working hours to accommodate additional track possessions, use of different items of major plant or equipment or substantial changes to working methods. Applications for dispensations should be made to the relevant local authority on the standard form (see pro-forma in Annex 6) preferably at least 14 days in advance of any revised working practice, or such other time as is deemed appropriate. The employer's representative must be informed about any such changes and applications for dispensations.

The following essential information should be included in the application for dispensation.

- Specific details of the works in question;
- Reasons why the works cannot be undertaken within the terms of the original Section 61 consent;
- Proposed hours of working;
- Predicted noise and vibration levels at identified receptor positions;
- Steps intended to be taken to mitigate the noise/vibration impacts of these works, i.e. a description of the proposed BPM controls.

If the details of the revised working are acceptable to the local authority, a dispensation will be issued which has the effect of varying the terms of the original consent. The dispensation may include its own discrete conditions and may prescribe a finite time period.

6.3 Variations

Variations should cover minor (non-material) changes in working methods e.g. substitution of individual items of plant and sporadic over-runs (e.g. to accommodate discrete concrete pouring operations). Under such circumstances, it is envisaged that these minor changes will not affect the predicted noise levels as submitted with the

Ref:	RT/LS/G/00022
Issue:	2
Date:	April 2004

original Section 61 consent application. Owing to the nature of the changes which, often, will preclude much prior notice, it is not appropriate or practicable to submit the same level of detail associated with an application for a dispensation, as outlined above.

Applications for a variation to the original consent should be discussed with the employer's representative in advance wherever possible and be made to the relevant local authority on the prescribed form (see pro-forma in Annex 7) as soon as it is practicable to do so, i.e. at least two working days in advance where this is practicable. To expedite matters the form should be faxed or e-mailed (with LA's agreement) to the local authority. In the event that the application is approved, the form should be counter-signed and faxed back together with conditions, if appropriate.

6.4 Notification to Local Residents/Occupants

Where time periods make this practicable, all applications to local authorities for a dispensation or a variation should include a statement advising how and when affected parties will be notified of the changes to the works programme. The relevant local authority should be sent a copy prior to or at the time such notifications are issued to the residents/occupants.

7. Sample Documentation

Ref:	RT/LS/G/00022
Issue:	2
Date:	April 2004

SAMPLE DOCUMENT I. PROFORMA S 6I APPLICATION FORM

CONTROL OF POLLUTION ACT 1974

Application for Section 61 Consent

CONTRACT no []

[Details of Site Location]
[Description of Works]

Submission:	Contract No []
Local Authority Reference:	
S 61 Consent Application Reference	

To the **[name of local authority]**

I HEREBY MAKE APPLICATION for prior consent in respect of works to be carried out on the (construction) sites specified under S 61 of the Control of Pollution Act 1974.

Signed ' Date

Print Name

<i>Details of 1st party</i>	<i>Details of contractors</i>

¹ Where application is made by a Company, the signature should be that of a Director, the Company Secretary, or other assigned nominee – see Sample Document 1.8; the address should be the Company's registered office.

Ref:	RT/LS/G/00022
Issue:	2
Date:	April 2004

1.	Address of location of proposed works. For site plans, refer to Sample Document I.7.	
2.	Name and address of Main Contractor.	Contact: Tel: Fax:
3.	Particulars of works to be carried out	See also detailed work programme described in Sample Document I.6.
4.	Methods to be used in each stage of development.	Refer to the Methods Statements in Sample Document I.1 (to be completed by contractor).
5.	Hours of Work.	Insert the following, as appropriate : [To minimise disturbance, normal daytime working hours will be adhered to. Normal working hours are: Monday to Friday 08.00 – 18.00 Saturday 08.00 – 13.00 Sunday 08.00 – 16.00 (Work on Sundays is restricted to plant and equipment maintenance only, for example in the event of unforeseen breakdowns etc.) In addition a start up period of up to one hour before normal hours and a close down period up to one hour after normal hours will be required. The start up and close down periods will be carried out as close to the start/end of normal working hours as possible].
6.	Number, type and make of equipment and machinery (including heavy vehicles) stating Sound Power Levels.	For Plant List, refer to Sample Document I.3. Sound Power Levels are taken from BS5228: Part 1: 1997 or derived from measurements (where data exists).
7.	Proposed steps to minimise noise and vibration.	Specific BPM measures for these works are detailed in Sample Document I.4.
8.	Predicted Noise Levels. <i>Note : there should be a presumption towards the use of measured noise data rather than relying on noise data provided in BS 5228. Where such measurements are to be relied upon, the source information including assumed distances etc must be stated and supplied to Local Authorities, on request. Similarly where manufacturer's noise data exists, this should be provided.</i>	Sample Document I.5 presents predicted noise levels at the receptor locations identified (see Sample Document I.7).

Ref:	RT/LS/G/00022
Issue:	2
Date:	April 2004

9.	Details of properties qualifying for noise insulation.																	
10.	Details of properties qualifying for temporary re-housing.																	
11.	Approximate duration of the works.	See also attached programme in Sample Document I.6.																
12.	List of plans and documents attached.	Refer to site plans in Sample Document I.7.																
13.	Other Information.	Contact Name at Present Tel 24 Hour Helpline: It is proposed to inform the local residents* about the works prior to works commencing. * these are identified on the attached plan.																
14.	List of Plans and Documents attached	<table><tr><td>Sample Document I.1</td><td>Method Statements</td></tr><tr><td>Sample Document I.2</td><td>Possession details</td></tr><tr><td>Sample Document I.3</td><td>Plant list & sound power levels</td></tr><tr><td>Sample Document I.4</td><td>Best Practicable Means</td></tr><tr><td>Sample Document I.5</td><td>Predicted noise levels</td></tr><tr><td>Sample Document I.6</td><td>Works Programme</td></tr><tr><td>Sample Document I.7</td><td>Site Plan & Drawings</td></tr><tr><td>Sample Document I.8</td><td>Letter of Authorisation</td></tr></table>	Sample Document I.1	Method Statements	Sample Document I.2	Possession details	Sample Document I.3	Plant list & sound power levels	Sample Document I.4	Best Practicable Means	Sample Document I.5	Predicted noise levels	Sample Document I.6	Works Programme	Sample Document I.7	Site Plan & Drawings	Sample Document I.8	Letter of Authorisation
Sample Document I.1	Method Statements																	
Sample Document I.2	Possession details																	
Sample Document I.3	Plant list & sound power levels																	
Sample Document I.4	Best Practicable Means																	
Sample Document I.5	Predicted noise levels																	
Sample Document I.6	Works Programme																	
Sample Document I.7	Site Plan & Drawings																	
Sample Document I.8	Letter of Authorisation																	