

ADVICE FOR RESIDENTS AFFECTED BY DEMOLITION & CONSTRUCTION SITES

The redevelopment of a site involving demolition and construction activities will inevitably cause a degree of conflict with neighbouring residential and/or commercial properties. Where large sites are undergoing development, construction activities may last for a considerable period of time. The role of the Environmental Health Service is to ensure that the redevelopment is carried out with a reasonable balance between the rights of neighbours to the reasonable use and enjoyment of their property and the rights of the developer to complete the works without undue restrictions being imposed. Where a resident is affected by site activities site managers often welcome the opportunity to resolve the problem directly with their neighbours. Some site managers and residents build up a 'working relationship', which brings about advantages for both parties and you may wish to consider contacting the site manager to discuss any problems that you may have. Where neighbours feel suitably aggrieved by activities on a site they can contact the Council where the Environmental Health Service will investigate their complaints and utilising their powers action may be possible to reduce the disturbance caused.

NOISE

Complaints are often made in relation to noise at unsociable hours of the day. The Control of Pollution Act 1974 gives Local Authorities the power to serve a Notice upon contractors/developers which sets out how works should be carried out in order to minimise noise arising from demolition/construction activities. Control of site noise is usually exercised by restricting the hours of noisy operations. This applies to any noisy activity and ensures that noise from the site which is audible beyond the site boundary shall only be carried out between the following hours:

MONDAYS - FRIDAYS	0800 - 1800
SATURDAYS	0800 - 1300
SUNDAYS AND BANK HOLIDAYS	NO NOISY WORK

If you are experiencing noise from the site outside the above hours you should contact the Environmental Health Service. Officers will bring the matter to the attention of the site manager and where necessary serve a Notice. Your identity will not be disclosed. In cases where continued noise is experienced outside the hours, officers will monitor the site as frequently as resources permit. If sufficient evidence becomes available to demonstrate that the contractor has failed to comply with the requirements of the Notice and can offer no 'reasonable excuse' (a defence in law) the matter will be referred to the Director of Legal Services. Upon advice, proceedings may be brought against the contractor. In such situations complainants may have been asked to complete a log sheet detailing noisy works outside the permitted hours and if legal proceedings are taken the Council may ask the complainant to provide a Witness Statement and to assist in providing evidence before the Court in any prosecution the Council may bring.

In some situations noisy working outside the hours may be permitted or the contractor may be able to demonstrate a defence of 'reasonable excuse'. These cases are usually rare and are normally the subject of agreement/negotiation with this Department to ensure that residents are protected as much as the law permits.

Noise from work during the permitted hours may be difficult to control, however the contractor is required to demonstrate that he is taking the Best Practicable Means to minimise the noise generated.

SMOKE

Depending upon the type and nature of the site that is being re-developed there may be a need for the removal of large amounts of waste, particularly during the demolition phase. Whereas some developers/contractors will recycle and re-use as much waste as possible and have cleared vegetation taken away from the site there are others who will opt to burn as much as possible to reduce costs. While this would seem unreasonable it is **not** an offence, in principle, and unless under the planning consent there has been a condition imposed prohibiting the lighting of fires on site the Council are not able to stop bonfires.

The Environmental Protection Act 1990 however gives Local Authorities the power to control smoke arising from burning waste on site. In cases where complaints have been received, or the Council has reason to believe that burning is to take place and nuisance is likely to occur, an Abatement Notice may be served upon the contractor prohibiting nuisance and specifying steps to be taken to minimise further disturbance. While the Notice cannot require the prohibition of further bonfires it is often the case that contractors would not wish to risk breaching the Notice and may decide to cease burning. Where further uncontrolled burning takes place officers will monitor the site as frequently as resources permit and action may be taken against the contractor on a similar basis as outlined for contravening the Notice controlling hours of noisy working above. Complainants may also be asked to complete a Witness Statement.

In addition to the above, under the Clean Air Act 1993, it is an offence to burn any material which results in the emission of dark smoke. Such items would include, rubber, bituminous materials, carpets, plastics, upholstery and insulation materials and you should contact the Council if you observe dark smoke from the site.

Because it is not an offence to burn site waste it must therefore be accepted that a certain amount of smoke has to be experienced before formal action is possible. For a Notice to be served the Council must be satisfied that smoke from the site is or is likely to cause a Statutory Nuisance. A Statutory Nuisance is the material interference with the use and enjoyment of a person's property. Unlike noise, smoke is not measurable and officers will make a subjective judgement on whether Nuisance exists on the basis of the amount of smoke caused, frequency and duration. Where an investigating officer is not of the opinion that Nuisance is being caused the site will be monitored

DUST

Dust is a common source of disturbance during both demolition and construction phases. It may result from a specific activity or process, or generally from the movements of vehicles on site. It is a greater problem during periods of dry, windy weather where site managers may have genuine difficulties in controlling dust to reasonable levels. Like the control of smoke from bonfires formal action is possible by the Council by the service of an abatement notice where excessive dust is generated.

The control of dust is sometimes difficult and the problems facing the contractor are recognised, however they are required to take all reasonable steps to minimise it and the Environmental Health Service can issue specific guidance. As with smoke, it may be the view of the investigating officer that the amount of dust arising from the site is not unreasonable and Nuisance is not being caused. In such cases the site will be monitored to ensure continuing adherence to best practice to keep dust to the minimum.

OTHER ISSUES

The Environmental Health Service has no control over issues involving vehicle movements to and from the site.

The Directorate of Environmental Services provides a number of services that may be useful. For enquiries/complaints about mud and spillage on the road, obstructions to the highway or pavement, planning control or the protection of trees (Tree Preservation Orders) please telephone 020 8547 5002.

The Health and Safety Executive are responsible for the enforcement of health and safety on site. They may be contacted on 0845 345 0055.

If you require further advice, please contact:-

**POLLUTION CONTROL, ENVIRONMENTAL HEALTH SERVICE,
GUILDHALL,
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