

Committee:	Date:
Planning and Transportation	21 March 2017
Port Health and Environmental Services	9 May 2017
Subject:	Public
Construction Site Noise Monitoring	
Ward: All	For Decision
Report of: Director of Markets and Consumer Protection and the Chief Planning Officer	

Summary

In December 2016 in a Question to Court of Common Council, an Alderman enquired whether developers could be asked to pay for on-site specialist staff to help monitor construction impacts and control adverse impacts. The Chairman of Planning and Transportation undertook that this would be investigated. This report recommends next steps following that investigation.

In January 2017 a new Noise Strategy 2016-2026 was approved together with a Draft Code of Practice for Deconstruction and Construction Sites ("Draft Code"), which was approved for consultation.

Further to the investigation in response to the noise monitoring question, it is recommended that the Draft Code approved for consultation be modified to include provision for monitoring contributions to be payable by developers to fund more proactive monitoring of construction impacts from development sites.

This should improve noise and other environmental impacts from development for adjoining occupiers but will increase development costs in the City.

Recommendation

Subject to comments received from your Committees:

The Planning and Transportation Committee are requested to:

1. Agree the necessary amendments to the Draft Code to make provision for monitoring payments to be payable by developers to fund more proactive monitoring of construction impacts on development sites and the revised Draft Code be issued for consultation amongst relevant stakeholders

2. Following consultation, instruct officers to report back with recommendations for the Draft Code to be adopted, and to make any necessary changes to conditions.

Main Report

Introduction

1. In December 2016 in a Question to Court of Common Council, an Alderman enquired whether developers could be asked to pay for on-site specialist staff to help monitor noise, dust and vibration from construction sites and help mitigate and control adverse construction impacts. The Chairman of Planning and Transportation undertook that this would be investigated. The Question and Answer is Appendix 1 of this report.
2. In January 2017 a new Noise Strategy 2016-2026 was approved together with a Draft Code of Practice for Deconstruction and Construction Sites ("Draft Code"), which was approved for consultation. However, in the course of investigation regarding enhanced construction site monitoring arrangements, it became apparent that any changes to current arrangements should be incorporated by way of further draft modifications to the Code issued for consultation. The consultation on these documents were briefly deferred pending consideration of this report.

Investigation

3. As noted in the recently approved Noise Strategy 2016-2026, the high level of intensive development in the City can have significant environmental impacts on occupiers of nearby noise sensitive premises. At present, appropriate site-specific arrangements are secured through planning conditions which require submission of and compliance with a Code of Practice for Deconstruction and Construction Sites. This is a bespoke document prepared for most development sites, based on the approved Code prepared by the Pollution Control team.
4. There is generally a good level of compliance, but the density of development, high level of activity, and conflicting needs of different communities occupying an extremely limited area mean that the impacts of non-compliance can be particularly severe. Therefore more proactive monitoring would contribute to better long term noise management and help mitigate adverse construction impacts more effectively.
5. It is not considered that full time attendance at development sites by City of London officers or agents/consultants is proportionate or appropriate, due both to good levels of compliance, and to the importance of ensuring the officers undertaking the monitoring are centrally based and able to work as part of a City team, and are not perceived as "subsumed" within the developer's site team.

6. The estimated staffing requirement to provide such monitoring is 3 additional staff, and the resource and costs are set out in Appendices 2 and 3 “Analysis of Site Sizes and Staffing Requirements”. As can be seen, if sought from developers, such costs would break down as follows:
 - Large Sites: £53,820 for the 1st year; £46,460 for each subsequent year
 - Medium Sites: £30,935 for the 1st year; £25,760 for each subsequent year
 - Small Sites: £5,060 in total.
7. Provisions for the payment of contributions to reflect the above sums could be incorporated into the Code of Practice for the relevant development, and secured through planning conditions.
8. There is a risk that the introduction of these additional charges for provisions could be regarded as running counter to the “light touch” Better Regulation approach advocated by central government. However, if the measures were introduced, officers would continue to fulfil their role supportively, with the aim of managing environmental issues for the benefit both of neighbouring occupiers, and for the smooth and neighbourly completion of developments. It will in addition impose a small costs increase on deconstruction and construction in the City including a more rigorous reporting regime which may be offset by the reduction in controls that need to be imposed by the City in responding to local nuisance.

Proposals

9. In order to justify planning requirements, they should be soundly based on relevant policies and procedures which have been adopted after appropriate stakeholder consultation. It is recommended that the proposed new provisions be incorporated in the Draft Code to be issued for consultation. This will enable the views of stakeholders to be obtained and considered. Once this has taken place the outcome of the consultation and recommendations for the final form of document to be adopted will be reported back to your Committees, together with any recommended changes to establishment which may be required to implement enhanced construction site monitoring.
10. These requirements would be in line with Policy DM15.7(3): Noise and Light Pollution and would be further referenced in the current Local Plan Review.
11. In the meantime, the Draft Code will provide interim guidance. The Draft Code will inform discussions with developers in relation to new

developments in the City and will be used to seek agreement in accordance with the Draft Code until the Draft Code has been approved.

Legal Implications

12. Planning Policy Guidance advises that no payment of money can be positively required by condition when granting planning permission. However, it may be possible to use a negatively worded condition (a “Grampian” condition) to prohibit development until a specified action has been taken.
13. Planning conditions relating to charges may only be imposed where there is a statutory basis for charging. The statutory basis for charges for the noise monitoring service on construction sites is conferred where the party making the payment has agreed to the provision of the service (S.3(2) Localism Act 2011).
14. Therefore a Grampian condition prohibiting commencement of development until the Deconstruction and Construction Plan for the Site has been approved, and any agreed pre-commencement measures under the Plan have been taken (including payment of an agreed monitoring contribution) may be lawfully attached to a planning permission.

Conclusion

15. The introduction of the modified Draft Code, approved for consultation, will include provision for contributions to be payable by developers to fund more pro-active monitoring of construction impacts from development sites. This will be done through the imposition of planning conditions requiring adherence to the Code of Practice. This should reduce noise and other environmental impacts from development for adjoining occupiers but will increase slightly direct development costs in the City which may be offset by the reduction in controls that need to be imposed by the City in responding to local nuisance

Appendices

Appendix 1: Question and Answer to Court of Common Council December 2016

Appendix 2: Outline for charging for environmental protection relating to construction and deconstruction

Appendix 3- Analysis of Site Sizes and Staffing Requirements