

South Dublin County Council
An Rannóg Talamhúsáide, Pleanála agus Iompair
Land Use, Planning & Transportation Department
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Date: 28-Apr-2022

**PLANNING AND DEVELOPMENT ACT, 2000 (as amended) & PLANNING
REGULATIONS MADE THEREUNDER**

Register Reference: S25422/02
Registration Date: 17-Feb-2022
Location: DA040(1)-South Dublin, Co. Dublin
Proposal: Erect Overground Structure (pole, cabinet, mast) (MRL T1
Application reference number: 2022DS0412).
Applicant: National Broadband Ireland

Pursuant to Section 254 of the Planning & Development Act 2000 (as amended), by CE Order No. PR/0486 dated 14-Apr-2022 a decision to **GRANT LICENCE UNDER SECTION 254** was made.

The Licence is hereby granted by the planning authority for such period and upon such conditions as the authority specifies below.

1. Plans and Particulars.

(a) The telecommunications street poles shall be installed and completed in their entirety fully in accordance with the plans, particulars and specifications lodged with this Section 254 Licence application, and additionally the plans, particulars and specifications required as per condition 2, save as may be required by the other conditions attached hereto, and the height and other dimensions as specified in those particulars shall not be exceeded.

(b) This licence relates to 9m high wooden poles at 3 locations on Aylmer Road and Lynch's Lane, specified in the report lodged with the application. This licence does not relate to any additional locations suggested as per the application form submitted and excludes cabinets.

REASON: To ensure that the development shall be in accordance with the permission and that effective control be maintained.

2. Duration of Licence.

The duration of this licence is for 25 years only.

REASON: To allow the Planning Authority to review the impact of the licenced works, to consider the merits or feasibility of any alternative solutions.

Condition amended by CE Order dated 27/4/22.

3. Withdrawal of Licence.

Notwithstanding any other conditions of this grant, South Dublin County Council reserves the right to withdraw the licence under section 254(4) of the Planning and Development Act, 2000, as amended, where in the opinion of the planning authority by reason of the increase or alteration of traffic on the road or of the widening of the road or of any improvement of or relating to the road, the appliance, apparatus or structure causes an obstruction or becomes dangerous, the authority may by notice in writing withdraw the licence and require the licensee to remove the appliance, apparatus or structure at his or her own expense.

REASON: To ensure that development is effectively managed.

4. South Dublin County Council Lands.

This licence does not permit any works on private property.

REASON: To ensure the proper application of Section 254 of the Planning and Development Act 2000, as amended.

5. Obsolescence.

In the event of obsolescence, or withdrawal or expiry of the license without renewal, the telecommunications poles shall be removed from the site and the site reinstated at the expense of the applicant or licensee as per the following, unless otherwise agreed with the Planning Authority:

- the verge surface shall be reinstated with selected soil material to a depth of 150mm;

- The verge shall be raked, level and compacted well around any infrastructure, and re-seeded with a grass seed mix predominately containing Dwarf Perennial Ryegrass.

These works are to be undertaken by a competent and experienced Landscape Contractor, to the satisfaction of the Planning Authority.

REASON: To protect the amenities of the area.

6. No Additional Dishes, Antennae or Other Equipment.

No additional cabling or other equipment, other than the cabling for which a licence has been sought, shall be attached to the telecommunications poles without first obtaining the prior written approval of the Planning Authority.

REASON: In the interest of the visual amenity of the area; to ensure that the development shall be in accordance with the permission and that effective control be

maintained and in the interest of the proper planning and sustainable development of the area.

7. Change of Ownership.

The applicant shall notify the Planning Authority of any change of ownership, transfer to a new operator or any subsequent agreements to the share the telecommunications poles.

REASON: To ensure that the developments shall be in accordance with the Licence granted and that development is effectively managed.

8. Change to Details of Licence Application.

If during the works the Licence Holder becomes aware of information that would materially alter the details previously submitted in advance of the works, it shall immediately notify South Dublin County Council and request approval to proceed.

REASON: To ensure proper application of the licence.

9. Safe Siting.

(a) Pole locations shall comply with NBI guidelines for assessing locations for new roadside utility poles in rural areas.

(b) The applicant shall ensure that the development and associated works will not cause any issue that would endanger public safety by reason of traffic hazard or obstruction to road users.

REASON: To ensure traffic safety.

10. Services.

(a) The poles shall be separated from any underground public utility by a distance of no less than 3 metres, except by written agreement with the responsible party for that utility. In the case of watermains and wastewater sewers, the responsible party is Irish Water. In the case of the surface water sewers, the responsible party is South Dublin County Council. Such agreements shall be copied to the SDCC Planning Department.

(b) The licence holder must ensure that pole erecting does not impact or damage underground services, existing drainage, public or third party property. In the event of damage to underground or overground property, the licence holder must notify the Area Engineer and detail the site location, pole reference number and completed repair.

REASON: To protect existing infrastructure.

11. Installation and Drainage.

The installation of the telecommunication poles shall not impair the operation of the existing land and roadside drainage and the applicants shall not interfere with roadside drainage without the prior written agreement of the SDCC Roads Department.

REASON: In the interest of the proper planning and sustainable development of the area.

12. Notification to the Roads Authority and National Roads Authority.

(a) The applicant or licensee shall, in advance of the commencement of the works to erect, construct, place or maintain electronic communications infrastructure or any associated physical infrastructure, inform:

(i) South Dublin County Council, and

(ii) where planned work is on a national road, the National Roads Authority.

(b) This licence does not permit the erecting of Poles within 10 metres of any special engineering difficulty which includes bridges, retaining walls, quay walls, piers, pylons, cellars, railway crossings or light railways, unstable embankments or cuttings.

REASON: in the interest of proper planning.

13. Maintenance.

Access to the licence area for maintenance purposes by any statutory undertakers shall be available at all times.

REASON: In the interests of the proper planning, maintenance and development of the area.

14. Construction Traffic Management Plan.

The applicant shall submit a construction traffic management plan for the written agreement of the Planning Authority.

(a) The construction traffic management plan shall include details on the maintenance routine during the initial and operational phase of the infrastructure, in essence, the roads department would like to see proposed parking/set down location for maintenance crews.

(b) No vehicle shall be allowed to park, intrude or obstruct public footpaths/cycle line during the construction and operational stage unless agreed through the construction and traffic management plan.

REASON: To protect the amenities of the area.

15. Safety During Works.

(a) Prior to commencement of works, a temporary traffic management plan shall be agreed with the SDCC Roads Department. The programme of works shall provide detail of the impact on traffic and proposed traffic control at each site which shall conform with the licence holders' statutory obligations. The Roads Authority may issue directions in relation to this submission in accordance with the Road Traffic Act.

(b) The temporary traffic management plan shall be available for inspection on site, and shall comply with the Traffic Signs Manual and health and safety requirements.

(c) Appropriate warning signage including lighting where required shall be erected during the installation period for the benefit of all road users, members of the public and site employees and to highlight the presence of construction related traffic on the public road adjoining the site.

(d) The Licence holder must provide a point of contact (Name / Tel No and Email address) who is directly involved with the management and control of the works. The point of contact shall be contactable, be present on site and shall have control over the work site.

(e) Prior to any works taking place which would affect a public footpath or cyclepath, the applicant shall obtain the written agreement of the SDCC Roads Department for an alternative temporary pedestrian and/or cycle route along the public road and/or public footpath and/or cyclepath, at any location where a public footpath and/or cyclepath is being affected by works. The full cost, including public liability of the provision of the alternative temporary pedestrian and/or cycle route shall be borne by the applicant.

(f) The applicant shall obtain the written agreement of the Roads Department for prior to any interference with the public footpath for the purposes of works.

(g) The Licence Holder shall consult with an Garda Síochána prior to the implementation of any traffic management using temporary traffic signals or Stop & Go boards.

REASON: In the interest of public and traffic safety.

16. Footpath and Cyclists.

(a) The developer shall ensure that the telecommunications poles not obstruct pedestrians, cyclists and will not to create a road safety hazard.

(b) The equipment installed under this licence shall be at least 600mm from the edge of the nearest footpath or cycle path.

REASON: In the interests of public safety and the comfort and safety of vulnerable road users.

17. Costs Incurred.

All costs incurred by South Dublin Council including any repairs to the public road and services, arising as a result of the licence, shall be at the expense of the licensee. Work to the public road shall only be carried out by South Dublin County Council.

REASON: To recover the costs of any necessary works to the public road.

18. Indemnification.

(a) The Licence Holder shall indemnify South Dublin County Council in respect of legal liability, loss, claim or proceedings whatsoever arising out of or in connection with:

(i) death and/or bodily injury to any persons whomsoever; and

(ii) loss or damage to any property whatsoever (arising from the negligent act, omission or breach of duty by the Licence Holder, its employees, servants or agents), which are caused by or arise from the carrying out of associated works or activities under the granted licence (including installation of property) by the Licence Holder, its employees, servants or agents save for where any loss, claim or proceedings arise out of the negligent act, omission, or any breach of duty whatsoever of the relevant road authority or their employees, servants, agents or otherwise.

(b) The Licence Holder shall hold, maintain and submit evidence of the following insurances:

(i) Employers liability insurance with an indemnity limit of not less than €13 million each and every claim; and

(ii) public and products liability insurances with indemnity limits of not less than €6.5million each and every claim respectively

Such insurances shall be extended to include an indemnity to South Dublin County Council where applicable.

REASON: To indemnify the Council for works carried out by the licensee.

19. Reinstatement of Remaining Area.

The remaining grass area around the structure shall either be retained in its present state or reinstated within 3 months of the installation of the equipment.

REASON: In the interest of visual amenity and the proper planning and sustainable development of the area.

20. Construction Noise and Hours.

To control, limit and prevent the generation of unacceptable levels of Environmental Noise Pollution from occurring during construction activity, no Equipment or Machinery (to include pneumatic drills, on-site construction vehicles, generators, etc.) that could give rise to unacceptable levels of noise pollution as set out generally for evening and night-time in S.I. No. 140/2006 - Environmental Noise Regulations 2006 shall be operated on the site before 7.00 hours on weekdays and 9.00 hours on Saturdays nor after 19.00 hours on weekdays and 13.00 hours on Saturdays, nor at any time on Sundays, Bank Holidays or Public Holidays.

Any construction work outside these hours that could give rise to unacceptable levels of noise pollution shall only be permitted following a written request to the Planning Authority and the subsequent receipt of the written consent of the Planning Authority, having regard to the reasonable justification and circumstances and a commitment to minimise as far as practicable any unacceptable noise outside the hours stated above.

In this respect, the applicant or developer shall also comply with BS 5228:2009 Noise and Vibration Control on Construction and Open Sites, and have regard to the World Health Organisation (WHO) – Guidelines for Community Noise (1999).

The applicant or developer shall also endeavour to engage in local consultation in respect of any noise sensitive location within 30 metres of the development as approved prior to construction activity commencing on site. Such noise sensitive locations should be provided with the following:

- Schedule of works to include approximate timeframes
- Name and contact details of contractor responsible for managing noise complaints
- Hours of operation- including any scheduled times for the use of equipment likely to be the source of significant noise.

REASON: In the interest of public health by the prevention of unacceptable levels of noise pollution which could interfere with normal sleep and rest patterns and/or when people could reasonably expect a level of quietness, the proper planning and sustainable development of the area and to uphold the Council's amenity policies set out in the South Dublin County Council Development Plan.

21. Operational Noise.

(a) Noise due to the normal operation of the proposed development, expressed as Laeq

over 15 minutes at the façade of any noise sensitive location, shall not exceed the daytime background level i.e. 0700 – 1900 by more than 10 dB(A) and shall not exceed the background level for evening and night time (currently 19:00 – 07:00) as determined in S.I. No. 140/2006 - Environmental Noise Regulations 2006 .

Clearly audible and impulsive tones at noise sensitive locations during evening and night as determined in S.I. No. 140/2006 - Environmental Noise Regulations 2006 shall be avoided irrespective of the noise level.

(b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any residence, adjoining premises or public place in the vicinity.

(c) All mechanical plant and ventilation inlets and outlets should be sound insulated and/or fitted with sound attenuators as necessary to ensure that the noise level as expressed as LAeq over 15 minutes at 1 meter from the façade of any noise sensitive location does not exceed the background level by more than 10 dB(A) for daytime and shall not exceed the background level for evening and night time (currently 19:00 – 07:00) as determined in S.I. No. 140/2006 - Environmental Noise Regulations 2006.

REASON: In the interest of public health by the prevention of unacceptable levels of noise pollution which could interfere with normal sleep and rest patterns and/or when people could reasonably expect a level of quietness, and to uphold the Council's amenity policies set out in the South Dublin County Council Development Plan.

NOTE: The applicant is advised that under the provisions of Section 254(6) of the Planning and Development Act 2000 (as amended), any person may, in relation to the granting, refusing, withdrawing or continuing of a licence under this section or to the conditions specified by the planning authority for such a licence, appeal to An Bord Pleanála.

NOTE: A Roads Opening Licence must be obtained from South Dublin County Council prior to the commencement of any works in the public domain in order to comply with the Roads Act 1993, Section 13, paragraph 10. Under this Act, non-compliance constitutes an offence.

Yours faithfully,



for Senior Planner