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**NOTIFICATION OF DECISION TO GRANT PERMISSION
PLANNING & DEVELOPMENT ACT 2000 (as amended) AND
PLANNING REGULATIONS THEREUNDER**

Decision Order Number: 0026	Date of Decision: 10-Jan-2023
Register Reference: S25422/06	Date: 07-Nov-2022

Applicant: Cignal Infrastructure Ltd.

Development: 18m Alpha 3.0 Streetpole Solution with antennas and ground equipment cabinet.

Location: Ballyroan Road, Butterfield, Dublin 16

Floor Area:

Time extension(s) up to and including:

Additional Information Requested/Received: 15-Aug-2022 /07-Nov-2022

Clarification of Additional Information Requested/Received:

DECISION TO: Pursuant to the Planning & Development Act 2000 (as amended), it is hereby decided, for the reasons set out in the First Schedule hereto, to **GRANT PERMISSION** for the said development in accordance with the said plans and particulars, subject to the conditions specified in the Second Schedule hereto, the reasons for the imposition of the said conditions being as set out in the said Second Schedule and the said decision is subject to the said conditions.

FIRST SCHEDULE

It is considered that the proposed development accords with the policies and objectives of South Dublin County Council, as set out in the South Dublin County Council Development

Plan 2022 - 2028 and subject to the condition(s) set out hereunder is thereby in accordance with the proper planning and sustainable development of the area.

SECOND SCHEDULE

Conditions and Reasons:

1. Plans and Particulars

The 18m Alpha street pole and associated equipment cabinet shall be installed and completed in its entirety fully in accordance with the plans, particulars and specifications lodged with this Section 254 licence application, 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.

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 3 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.

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. 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.

10. 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.

11. 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.

12. 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.

13. Footpath and Cyclists

(a) The location shall take into consideration any undergrounds services. Service gates for the ancillary cabinet shall not intrude on the carriageway or the pedestrian footpaths.

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

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

14. 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.

15. Costs Incurred

All costs incurred by South Dublin Council 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.

16. Legislation

This licence is for the telecommunications street pole, antenna and operator's cabinet and nothing in this licence shall be construed as negating the applicant's statutory obligations or requirements under any other enactments or regulations, including planning legislation, building legislation and The Roads Act.

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

17. 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.

18. Construction Traffic Management Plan

Prior to commencement of development, the applicant shall agree a Construction Traffic Management Plan with 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.

19. Tree Protection

The applicant/developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the submitted Arboricultural Report and Tree Protection Plan prepared by Gary Doherty. The arborist shall carry out a post construction tree survey on the condition of the retained trees. A completion certificate shall be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report.

REASON: To ensure that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality and in accordance with relevant policies and objectives in the CDP 2022-2028.

20. Minimise Air Blown Dust.

During the construction and or demolition phase of the development, Best Practicable Means shall be employed to minimise air blown dust being emitted from the site. This shall include covering skips and slack-heaps, netting of scaffolding, daily washing down of pavements or other public areas, and any other precautions necessary to prevent dust nuisances. The applicant/developer shall comply with British Standard B.S. 5228 Noise Control on Construction and Open sites and British Standard B.S. 6187 Code of Practice for demolition.

REASON: In the interest of public health and to uphold the Council's policies set out in the South Dublin County Council Development Plan.

21. 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.

22. 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.

The Developer is advised that under the provisions of the Construction Products Regulation 2013 (No.305/2011-CPR) All products sourced for use in building process must conform with the statutory requirements of the CPR. For more information on these responsibilities see <http://ec.europa.eu/enterprise/sectors/construction/legislation>.

From March 1, 2014 the Building Control (Amendment) Regulations 2013 (SI 80 of 2013) come into effect. All Commencement Notices for works greater than 40sq.m are obliged to be accompanied by a number of certified undertakings as described by these Regulations.

Please note that upon receipt of this document you are obliged to remove the planning site notice in compliance with Article 20 of the Planning and Development Regulations 2001, as amended.

Please note that any valid submissions or observations received in accordance with the provisions of the Planning and Development Regulations 2001, as amended, have been considered in the determination of this application.

Signed on behalf of the South Dublin County Council.

Pamela Hughes
for **Senior Planner**

10-Jan-2023

NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications related to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of two months beginning on the date of the Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

(A) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála. The applicant or ANY OTHER PERSON who made submissions or observations to the Local Authority may appeal within FOUR WEEKS beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received).
1. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. In the case of a third party appeal it must be accompanied by the acknowledgement by the Planning Authority of receipt of the submissions/observations. Appeals should be sent to:
 2. The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1.
3. An Appeal lodged by an applicant/ agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below.
4. A party to an appeal making a request to An Bord Pleanála for an Oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (g) below).
5. A person who is not a party to an appeal must pay a fee to An Bord Pleanála when making submissions or observations to An Bord Pleanála in relation to an appeal.
6. If the Council makes a decision to grant permission/grant permission consequent on a grant of outline permission and there is no appeal to An Bord Pleanála against this decision, PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION will be granted by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If any appeal made in accordance with the Acts has been withdrawn, the Council will grant the PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION/RETENTION as soon as may be after the withdrawal.
7. Fees payable to An Bord Pleanála from 10th December 2007 are as follows:
 - (a) Appeal against a decision of a Planning Authority on a planning application relating to commercial development made by the person by whom the planning application was made.
where the application relates to unauthorised development €4.500.00 or €9.000 if an E.I.A.R. is involved
 - (b) Appeal against a decision of a planning authority on a planning application relating to commercial development made by the person by whom the planning application was made.
other than an appeal mentioned at (a)..... €1.500.00 or €3,000.00 if an E.I.A.R. is involved
 - (c) Appeal made by the person by whom the planning application was made, where the application relates to unauthorised development other than an appeal mentioned at (a) or (b) €660.00
 - (d) Appeal other than an appeal mentioned at (a), (b), (c) or (f) €220.00
 - (e) Application for leave to appeal €110.00
 - (f) Appeal following a grant of leave to appeal €110.00
 - (g) Referral..... €220.00
 - (h) Reduced fee (payable by specified bodies)..... €110.00
 - (i) Submission or observations (by observer) €50.00
 - (j) Request from a party for an Oral Hearing €50.00

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at

Telephone 01-858 8100