

**From:** Bord  
**Sent:** Monday 28 February 2022 10:24  
**To:** Appeals2  
**Subject:** FW: ABP-310362-21 Planning Authority Reference Number: EX907  
**Attachments:** ABP -310362-21 Section 5 Referral Response.pdf

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**From:** David Counihan [REDACTED]  
**Sent:** Monday 28 February 2022 09:35  
**To:** Bord <bord@pleanala.ie>  
**Subject:** ABP-310362-21 Planning Authority Reference Number: EX907

To The Secretary,

Please find attached response to An Bord Pleanála request for additional information relating to a Section 5 referral under ABP-310362-21 Planning Authority Reference Number: EX907.

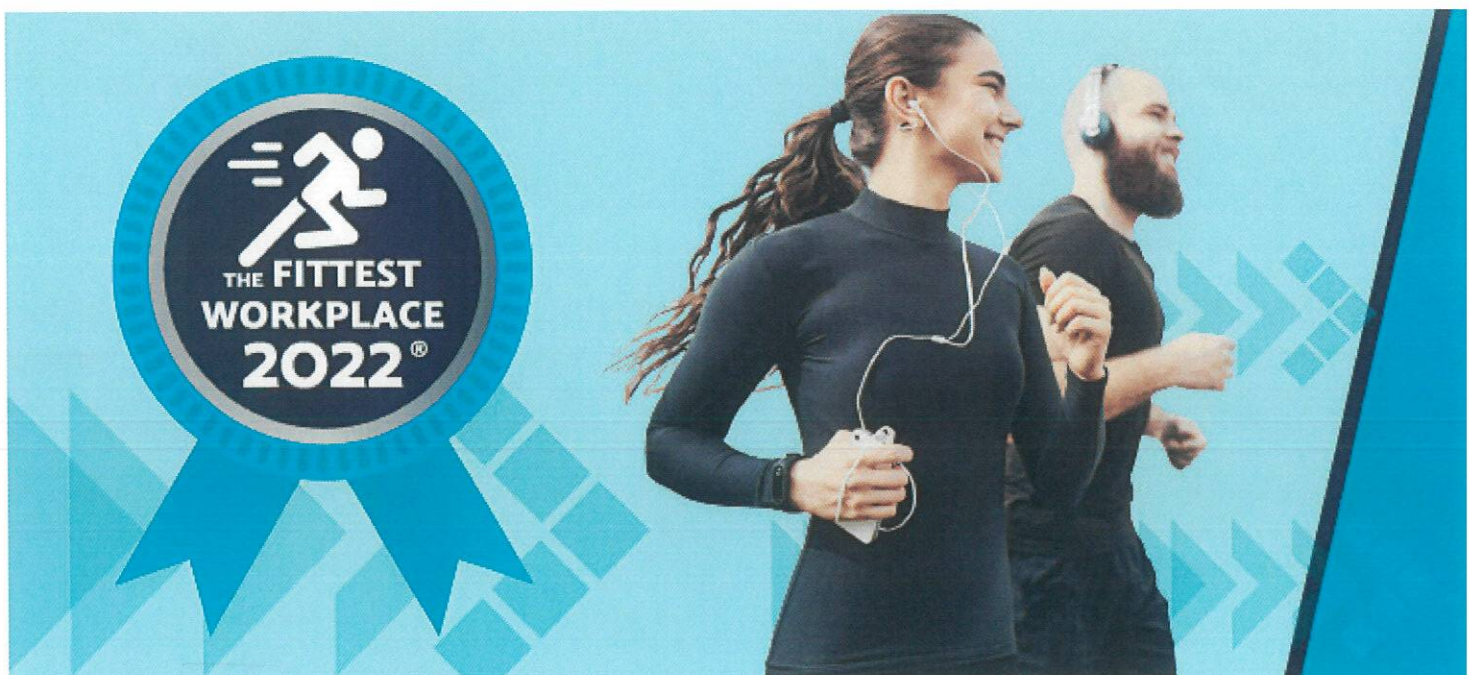
I trust this is in order and is acceptable.

Please feel free to contact me if you require more information.

Kind Regards  
David Counihan

**David Counihan**  
Town Planning Manager

Mobile: [REDACTED]  
4site House, Raheen Business Park, Limerick, V94 VX88 | [www.indigotg.com](http://www.indigotg.com)





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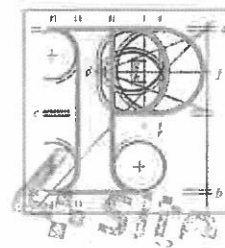
*Indigo Telecom Group Ltd*

Registered Office: 102 Wales One Business Park, Magor, Monmouthshire, NP26 3DG

Registered in England & Wales, Registration No: 03675459

**Our Case Number: ABP-310362-21**

**Planning Authority Reference Number: EX907**



**An  
Bord  
Pleanála**

10 FEB 2022

**RECEIVED**

Cignal Infrastructure  
c/o 4Site  
4Site House  
Raheen Business Park  
Co. Limerick

**Date: 09 February 2022**

**Re: Whether the development of a telecommunications mast, associated telecommunications infrastructure, and an access route on an elevated site is 'development' and is not 'exempted development'.  
Ballinknockane, Camp, Tralee, Co. Kerry.**

Dear Sir / Madam,

I have been asked by An Bord Pleanála to refer to the above-mentioned appeal.

The Board has examined the appeal and is of the opinion that certain information is necessary for the purpose of enabling it to determine the appeal.

In accordance with section 132 of the Planning and Development Act, 2000, (as amended), you are required to submit, on or before the **1st March, 2022**, the following information:

**It is noted that your response to the planning authority, dated 19/04/2021, in respect of this Section 5 referral, indicates that:**

***"The development is designed and will be installed in accordance with the provisions of Class 31(a)(b) & (f) and Class 16 of Part 1 of Schedule 2, of the Planning and Development Regulations 2001, as amended".***

**You are required to clarify which aspects of the 'development' referred to above are to be carried out in accordance with the provisions of Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and how such 'development' would comply with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.**

If the information required is not received before the end of the specified period, the Board will dismiss or otherwise determine the appeal without further notice to you in accordance with section 133 of the 2000 Act, (as amended). Your submission in response to this notice must be received by the Board not later than **5.30 p.m. on the date specified above.**

Tel (01) 858 8100  
Glaos Áitiúil LoCall 1890 275 175  
Facs Fax (01) 872 2684  
Láithreán Gréasáin Website www.pleanala.ie  
Ríomhphost Email bord@pleanala.ie

64 Sráid Maoilbhríde 64 Marlborough Street  
Baile Átha Cliath 1 Dublin 1  
D01 V902 D01 V902

The Secretary,  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1

Date: 25<sup>th</sup> February 2022.

#### SECTION 5 REFERRAL RESPONSE

An Bord Pleanála Case Number	ABP-310362-21
Planning Authority	Kerry County Council
Planning Register Number	EX907
Site location/ Development Address	Ballinknockane, Camp, Tralee, Co. Kerry

**RE: Whether the development of telecommunications mast, associated telecommunications infrastructure, and an access route on an elevated site is 'development' and is not 'exempted development' at Ballinknockane, Camp, Tralee, Co. Kerry.**

David Counihan of 4Site, 4Site House, Raheen Business Park, Limerick acts on behalf of Cignal Infrastructure Limited, Suite 311, Q House, 76 Furze Road, Sandyford Industrial Estate, Dublin 18. The works in question form part of a telecommunications development undertaken on behalf of Cignal Infrastructure Ltd. who are authorised to install telecommunications equipment on behalf of eircom Limited. eircom Limited, trading as eir, is a statutory undertaker within the meaning of Part 1, Section 2 of the Planning and Development Act 2000, as amended, and Part 1, Schedule 2, Class 31 Planning and Development Regulations 2001, as amended. The works form part of a development to install a 12m pole carrying overhead telecommunications equipment, underground telecommunications structures or other underground telecommunications works (including the laying of mains and cables and the installation underground of any apparatus or equipment) & cabinets forming part of a telecommunications system. An existing access track from the public road is being utilized to enable construction and installation works at the site.

We have received letter, dated 9<sup>th</sup> February 2022, from An Bord Pleanála requesting, in accordance with section 132 of the Planning the of and Development Act, 2000, (as amended), to submit, on or before the 1st of March 2022, the following information:

*It is noted that your response to the planning authority, dated 19/04/2021, in respect of this Section 5 referral, indicates that:*

*"The development is designed and will be installed in accordance with the provisions of Class 31(a)(b) & (f) and Class 16 of Part 1 of Schedule 2, of the Planning and Development Regulations 2001, as amended".*

*You are required to clarify which aspects of the 'development' referred to above are to be carried out in accordance with the provisions of Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and how such 'development' would comply with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.*

## Response

In response to the query relating to the temporary works undertaken in accordance with Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, it has been confirmed by the developer (Cignal Infrastructure Limited) that, due to ground conditions and slope to the site there was a requirement to lay a temporary access track from the existing farm access gate to facilitate safe access to the site from the public road. This temporary access track remains in situ as all works at the site have been suspended pending the outcome of the decision of the referral. The developer has committed to removing the access track once the development is complete and the land over which the temporary track has been laid shall be reinstated and reseeded for grass re-establishment as appropriate.

It is therefore submitted that, the works, the laying of a temporary access track that is needed temporarily in connection with the development of the telecommunications installation designed in accordance with Class 31 (a)(b) & (f) of Part 1 of Schedule 2, of the Planning and Development Regulations 2001, as amended, complies with the conditions and limitations specified in column 2 of Class 16 of Part 1 of Schedule 2, of the Planning and Development Regulations 2001, as amended.

Having regard to the following;

- a) Sections 2, 3 and 4 of the Planning and Development Act 2000, as amended,
- b) Class 31 (a)(b) & (f) of Part 1 of Schedule 2, of the Planning and Development Regulations 2001, as amended,
- c) Class 16 of Part 1 of Schedule 2, of the Planning and Development Regulations 2001, as amended.

The development is considered to be exempted development according to the provisions set out in Class 31 (a)(b) & (f) & Class 16 of the Planning and Development Regulations, as amended.

If you have any queries in relation to the above, please do not hesitate to contact me at the address provided.

Yours sincerely,

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4Site House,  
Raheen Business Park,  
Limerick.

EXTRACT FROM Class 31 (b) & (f) & Class 16 of Part 1 of Schedule 2, of the Planning and Development Regulations 2001, as amended.

Column 1 Description of Development	Column 2 Conditions and Limitations
<b>CLASS 31</b> The carrying out by a statutory undertaker authorised to provide a telecommunications service of development consisting of the provision of—	
(a) underground telecommunications structures or other underground telecommunications works (including the laying of mains and cables and the installation underground of any apparatus or equipment),	
b) overhead telecommunications including the erection of poles or other support structures or the use of existing poles or other support structures,	<ol style="list-style-type: none"> <li>1. Poles or other support structures carrying overhead lines shall not exceed 12 metres in height.</li> <li>2. Poles or other support structures carrying other equipment shall not exceed 12 metres in height and 0.6 metres in diameter measured at the widest point, where “other equipment” means 2 transmitting or receiving dishes (the diameter of which shall not exceed 0.6 metres), or 1 panel antenna (the dimensions of which shall not exceed 0.85 metres in length x 0.65 metres in width x 0.2 metres in depth) used for the provision of a specific telecommunications service and the provision of which would otherwise require an additional pole route carrying overhead wires.</li> <li>3. Where a pole or poles or other support structures carry radio transmitting or receiving apparatus, the field strength of the non-ionising radiation emissions from that installation shall not exceed the limits specified by the Commission for Communications Regulation.</li> </ol>
(f) cabinets forming part of a telecommunications system,	The volume above the ground-level of any such cabinet shall not exceed 2 cubic metres measured externally.

Column 1 Description of Development	Column 2 Conditions and Limitations
<b>CLASS 16</b> The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.	Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.