

An  
Bord  
Pleanála

**Board Direction**  
**BD-018989-25**  
**ABP-318795-24**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/02/2025.

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 2 attached to the grant of permission and accordingly decided that the planning authority be directed to REMOVE condition number 2.

## **Reasons and Considerations**

It is considered, based on the information on file, including the description of the development set out on the public notice and the submitted drawings and particulars and based on the submissions received from the first party and the planning authority, that the proposed development comprising electricity transmission infrastructure, is not a class or description of development that is specified in the adopted Dublin City Council Development Contribution Scheme 2023-2026, which, under section 48(2)(a) is the basis for the determination of any contribution. The Board did not consider it reasonable to apply a development contribution to the proposed development based on an alternative class or description of development, namely 'industrial/commercial,' included in the contribution scheme, as the Board was satisfied that the development before the Board is neither 'industrial' nor 'commercial' in terms of class or description of development. Furthermore, the Board

did not agree with the planning authority as expressed in its response to the appeal, that the class or description of development could be reasonably construed as comprising 'commercial' development on the basis that the provision of electricity supply to an end user is a commercial operation. Overall, the Board was satisfied that there is no class or description of development, for the proposal that is now before the Board, contained within the current Dublin City Council Development Contribution Scheme.

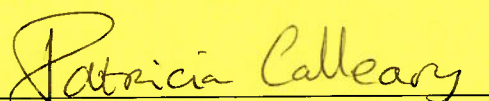
**Note:**

In deciding not to accept the inspector's recommendation to attach condition number 2, the Board did not share the view of the inspector that the planning authority had correctly applied the terms of the Dublin City Council Contribution Scheme 2023-2026. The inspector arrived at the conclusion largely on the basis that, as set out in the inspector's assessment, the development can be both a public service utility and an industrial development and that there is no exemption for a public utility class of development in the contribution scheme. However, the Board did not share this view. Instead, the Board concluded that, having regard to the class or description of the development, comprising electricity transmission infrastructure, and by reason of the different classes of development set out in the development contribution scheme, the development does not fit within an 'industrial/commercial' class or description of development specified in the scheme. Furthermore, the Board was satisfied that the development does not fit within any other class or description of development specified in the scheme. The Board did not share the inspector's findings that the two (residential and industrial/commercial) classes or descriptions of development specified in the scheme are not an exhaustive list or the expressed view that within the meaning of the scheme, development is one *or* the other. Specifically on this matter, the Board noted that Section 48(2)(b) of the Planning and Development Act provides that 'a scheme may make provision for payment of different contributions in respect of different classes or descriptions of development' and in this regard, the Board was satisfied that the intention of a Section 48 development contribution scheme is that when prepared and adopted, there is clarity and certainty for the planning authority and any applicant/developer of the classes or descriptions of development that fall within any such scheme, in addition to the level of contribution

payable. In relation to the inspector's view that there is no exemption in the scheme for a public utility, the Board was satisfied that as the development now before the Board does not fit within any class or description of development within the adopted development contribution scheme, and as a consequence no development contribution applies, the matter of exemption, or a reduced contribution, does not arise in this instance.

Overall, the Board was satisfied that the proposed development comprising electricity transmission infrastructure, is not a class or description of development specified within the adopted Dublin City Council Development Contribution Scheme 2023-2026.

**Board Member:**

  
Patricia Calleary

**Date:** 20/02/2025