An Coimisiún Pleanála

Inspector's Report

PL-501133-DF-26

Development	Construction of a data centre building with all associated site works
Location	Orion Business Park, North-West Business Park, Ballycoolin, Dublin 15, D15XE2N
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW26A/0021E
Applicants	South Dublin Routing 4 No. 2 Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	First Party against Conditions
Appellants	South Dublin Routing 4 No. 2 Limited
Observers	None
Inspector	Margaret Commane

Contents

1.0 Introduction

1.1. This is a first party appeal against financial contribution conditions which were attached to the Planning Authority's notification of decision to grant permission. As this is an appeal in respect of conditions requiring a financial contribution, the provisions of Section 48 of the Planning and Development Act, 2000 (as amended), apply, and the Coimisiún is restricted to considering this matter alone and cannot consider the matter de novo. I have therefore confined my assessment to the condition in question.

1.2. Having regard to the nature of the Section 48 appeal before the Coimisiún and the information available on file, a site inspection was not deemed necessary in this instance.

2.0 Site Location and Description

2.1. The subject site forms part of the Pure DC Campus within the Orion Business Park, Ballycoolin, Dublin 15, which is located c. 1.5km north of the M50, c. 2km west of the N2 and c. 3km east of the N3. Ballycoolin, which is located northeast of Blanchardstown Town Centre, forms part of the Dublin 15 Enterprise Zone and contains a number of estates with a wide variety of businesses from IT, manufacturing, logistics and warehousing. More specifically, the appeal site comprises of a 2.64ha land parcel featuring in south-eastern part of the Orion Business Park. The subject site is part of an active construction site, which was formerly occupied by the Brian Daly Transport warehouse/logistics facility (since demolished).

3.0 Proposed Development

3.1. Permission is sought for construction of a c. 22,295sqm data centre building, which results in the amalgamation of buildings DC2 and DC3 (previously permitted under Reg. Refs. FW17A/0167 & FW18A/0114), and the provision of a c. 1433sqm Energy Centre EC3 (previously permitted under Reg. Ref. FW24A/0246E). Permission is also sought for a 173sqm 10MVA/38kV substation, c. 57 no. car parking spaces, 24 no. EV car parking spaces, 48 no. covered bicycle spaces, and all landscaping (including biodiversity area), drainage, waste storage area, internal and external accessways associated with the development.

4.0 Planning Authority Decision

4.1. Decision

4.1.1. On 13th March 2026, the Planning Authority issued a notification of their intention to grant permission subject to 21 no. conditions. Condition No. 21 is relevant to the subject appeal, which reads as follows:

21. Prior to Commencement of development the developer shall pay the sum of €2,513,429.16 (updated at date of commencement of development, in accordance with changes in the Tender Price Index) to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council. The phasing of payments shall be agreed in writing with the planning authority prior to the commencement of development.

REASON: It is considered reasonable that the payment of a contribution be required in respect of the public infrastructure and facilities benefiting development in the area of the Planning Authority and which is provided, or which is intended to be provided by, or on behalf of the Local Authority. Note on above Condition: Please note that with effect from 1st January 2014, Uisce Éireann are now the Statutory Body responsible for both water and waste water services (excluding surface water). Accordingly, the contribution payable has been reduced by the amount of the contribution associated with these services. A separate charge will be levied by Uisce Éireann in relation to the provision of water and/or wastewater treatment infrastructure and connections to same. Further details are available on the Uisce Éireann website www.water.ie, Tel. (01) 6021000.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Having regard to the planning history associated with the subject site and Objectives EEO13 & ZO4 of the Fingal County Development Plan 2023-2029, the development is considered appropriate. It is also consistent with the

Employment and Economic Development Policies and Objectives outlined within Section 7.5.1 of the same.

- Having regard to the building footprint, height, setbacks provided, façade treatments and boundary treatments, it is not considered that the proposed development will adversely impact on the visual amenity of the Orion Business Park.
- Overlooking, overdominance, overshadowing and overbearing issues are not deemed to arise.
- The development is in compliance with Sections 14.15, 14.15.1, Objective DMSO89 and the Design Guidelines under Table 14:15 of the current Development Plan. Subject to conditions regarding noise/acoustic treatment, the development is also considered appropriate in the context of the HT – High Technology zoning objective applying to the area.
- The proposed development represents a significant improvement from the previously permitted developments on site in terms of energy consumption, the subject proposal adopting a more sustainable energy strategy. In this regard, the development is in compliance with Sections 14.15.13, 14.21.2, Objectives DMSO92, DMSO257- DMSO259 & DMSO261 and the HT – High Technology zoning objective outlined in the current Development Plan.
- With regards to access, parking and transport, the proposed development is considered appropriate subject to conditions pertaining to sightlines, cycle infrastructure, pedestrian infrastructure, a Road Safety Audit, a Mobility Management Plan and crane usage being attached to the grant of permission.
- The proposal is considered appropriate in the context of flooding and water supply. Subject to conditional requirements, surface water drainage proposals are also considered appropriate.
- The proposed development, both individually and in combination with other plans or projects, would not be likely to have a significant impact on the Natura 2000 site network.
- No EIA is required having regard to Schedule 5 (Part 1 or Part 2) & Schedule 7/7A of the Planning and Development Regulations, 2001 (as amended).

4.2.2. ***Other Technical Reports***

Environment Section (Waste Enforcement & Regulation) (27/01/2026): No objection, subject to conditions.

Water Services Department (23/02/2026): No objection, subject to conditions.

Parks and Green Infrastructure Division (23/02/2026): No objection, subject to conditions.

Air & Noise Unit (05/03/2026): Recommended that further information be requested regarding up-to-date baseline noise, noise sensitive locations, updates to potential impacts of the proposed development, and acoustic barriers.

Transportation Planning Section (10/03/2026): No objection, subject to conditions.

4.3. **Prescribed Bodies**

Irish Aviation Authority (09/02/2026): No objection subject to the applicants engagement with DAA/Dublin Airport and the Air Navigation Service Provider Air Nav Ireland and conditions relating to crane usage.

Dublin Airport Authority (04/03/2026): No objection subject to conditions relating to crane usage.

4.4. **Third Party Observations**

None.

5.0 Planning History

5.1. The following previous applications pertaining to the subject site are of relevance:

PA Reg. Ref. FW17A/0167

Permission was granted by Fingal County Council, on 31st January 2018, for demolition of existing warehouse building (c. 14,940sqm); construction of 3 no. 2-storey Data Centres; provision of an Energy Centre at each Data Centre; provision of a c. 52sqm gas pressure reduction facility with separate access; provision of 80 no. car parking spaces, 60 no. bicycle parking spaces, internal roads and docking areas;

extension of existing footpaths; site lighting and security fencing; and all associated site development works, landscape works and services provision. Total floor area of the development is c. 31,537sqm.

PA Reg. Ref. FW18A/0114

Permission granted by Fingal County Council, on 21st September 2018, for modifications to permission Reg. Ref. FW17A/0167 (for demolition of existing warehouse and construction of 3 no. data centres and associated works), comprising the following (in summary): - revised internal layouts of the 3 no. permitted buildings; increase in the footprint of Building 2; revised energy centre layouts; provision of sprinkler pump house; revised access, internal roads and car parking layouts; revised security fencing and external lighting layouts; and provision of 2 no. single storey security buildings (c. 72.69sqm). Total gross floor area of the resultant development revised to c. 40,635sqm.

PA Reg. Ref. FW24A/0012

Retention permission was granted by Fingal County Council, on 29th February 2024, for construction of a new 500KVA substation and back-up generator. The development also included amendments to permissions Reg. Ref. FW17A/0167 and Ref. FW18A/0114 to include the works subject to retention.

PA Reg. Ref. FW24A/0013

Retention permission was granted by Fingal County Council, on 1st May 2024, for modifications to the permitted entry area and guardhouse and other minor modifications to car parking and landscaping. The development also includes amendment to permissions Reg. Ref. FW17A/0167 and FW18A/0114 to include the works subject to retention.

PA Reg. Ref. FW24A/0139

Permission was granted by Fingal County Council, on 14th May 2024, for amendments to permissions Reg. Ref. FW17A/0167 and FW18A/0114 comprising alterations to the permitted above ground installation (AGI) and associated works.

PA Reg. Ref. FW24A/0246E

Permission was granted by Fingal County Council, on 24th July 2024, for modifications to permissions Reg. Ref. FW17A/0167 and FW18A/0114, comprise the following (in summary): revised layouts of Plant Yards No. 1, 2 and 3; associated modifications to internal access and landscape areas; ancillary infrastructure; minor modifications to rear loading of Buildings No. 1, 2 and 3; and all associated works ancillary to the modifications. The modifications also included a temporary energy generation compound for a period of c. 1.5 year. Temporary modifications including installation of 4 no. gas powered generators and 4 no. bio diesel (HVO) generators (including biodiesel storage) used in standby application. Following the temporary period, Data Centre building No. 2 will be developed in accordance with the layout and design as permitted by FW18A/0114 including the modifications proposed in this application. The temporary works will be removed once Energy Centre No. 1 and 2 have been commissioned.

PA Reg. Ref. FW24A/0532E

Permission was granted by Fingal County Council, on 12th February 2025, for amendments to permission Reg. Ref. FW17A/0167, as amended by permission Reg. Refs. FW18A/0114 and FW24A/0246E, comprising the following in summary: revisions to southwest corner layout to provide for a Battery Energy Storage System (BESS); 500mm increase in permitted MV2 building's building height; modification of stair access to the permitted fuel & Urea tanks; addition of plant housing between the CSB building and fuel tanks; change in height of flue sampling platforms; and all associated works ancillary to the modifications.

6.0 Policy Context

6.1. Planning and Development Act, 2000 (as amended)

6.1.1. Section 48 of the Planning and Development Act, 2000 (as amended), provides as follows:

> *48.—(1) A planning authority may, when granting a permission under section 34, include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning*

authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).

(2) (a) Subject to paragraph (c), the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme made under this section, and a planning authority may make one or more schemes in respect of different parts of its functional area.

(b) A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.

(c) A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

(3) (a) A scheme shall state the basis for determining the contributions to be paid in respect of public infrastructure and facilities, in accordance with the terms of the scheme.

(b) In stating the basis for determining the contributions in accordance with paragraph (a), the scheme shall indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities which are provided or to be provided by any local authority and the planning authority shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination.

(c) A scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provisions of the scheme.

6.1.2. Section 48(10) provides:

(10) (a) Subject to paragraph (b), no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.

(b) An appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

(c) Notwithstanding section 34(11), where an appeal is brought in accordance with paragraph (b), and no other appeal of the decision of a planning authority is brought by any other person under section 37, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal provided that the person who takes the appeal in accordance with paragraph (b) furnishes to the planning authority security for payment of the full amount of the contribution as specified in the condition.

6.2. Fingal County Council Development Contribution Scheme 2026-2030

6.2.1. The operative Development Contributions Scheme is the Fingal County Council Development Contribution Scheme 2026-2030. Paragraph 18 of the same provides for the following level of contribution to be paid (except where an Exemption or Reduction applies) in respect of the different classes of public infrastructure and facilities:

Class of Public Infrastructural Development	**Residential Development - € per square metre**	**Industrial / Commercial Development - € per square metre**
Class 1: Transportation and Active Travel Infrastructure & Facilities	€67.33	€52.58
Class 2: Surface Water Infrastructure & Facilities (incl. Flood Relief)	€ 1.35	€ 1.05
Class 3 : Community Facilities, Parks & Open Space Amenities & Biodiversity related Infrastructure, Tourism, Cultural & Library Development, Economic Development and Regeneration infrastructure	€ 65.99	€ 51.53
Total of Contributions Payable	**€ 134.67**	**€ 105.16**

6.2.2. A series of exemptions and reductions to the contributions payable are outlined in Paragraph 23 and Paragraph 25, respectively. The following are of relevance in the context of the subject application:

23(q) *Development comprising signage, shop front, entrance gates, vehicular entrances, outdoor dining spaces/seating, railings, fencing, antennae structures, bus shelters, switch rooms, substations, power lines, gas skids, ancillary plant rooms, pump houses, bike sheds.*

23(t) *Demolition and Rebuild: Where permission is granted to demolish in part or in full an existing building and replace with another, then the development contribution payable is to be calculated as follows:*

- *Where a contribution has been previously paid – the contribution will be levied on the increased floor area of the new build over the old.*
- *If no contribution was previously paid: the contribution will be levied on the development in full.*

Note: Demolition must be necessary to facilitate the proposed development. The Scheme does not provide for any rebate or refund in this regard. Agents/Applicants shall provide evidence of prior payments made when applying for permission to expedite assessment and to avail of this exemption.

23(u) *Carparking is exempt in the following circumstances:*

- *Residential ancillary car-parking in residential developments and in line with County Development Plan standards, whether surface or non-surface.*
- *Underground, multi-storey or undercroft car-parking integrated within a building when ancillary to the proposed use of the building.*

6.3. Development Contributions – Guidelines for Planning Authorities 2013

6.3.1. These guidelines state that the primary function of such schemes is to contribute towards the funding of essential public infrastructure required for development. These guidelines provide guidance on how to address the economic changes since 2007 when drafting development contribution schemes.

6.4. Natural Heritage Designations

6.4.1. Not relevant.

6.5. EIA Screening

6.5.1. Not relevant.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- While the grant of permission is welcomed, it is submitted that the financial contribution fee set out in Condition No. 21 has been incorrectly calculated and does not conform with the Fingal County Council Development Contribution Scheme 2026-2030.
- The Planning Authority, when calculating this condition, have not taken into account a reduction in the applicable area to be levied stemming from the previous demolition works on site. Section 23(t) of the Fingal County Council Development Contribution Scheme 2026-2030 is noted which states that where an applicant is granted permission to demolish, in part, or in full, an existing building and replace it with another, then the development contribution payable is to be charged on the net additional floorspace created.
- Following the granting of permission Reg. Ref. FW18A/0114, upon request by the applicant a Section No. 48 Assessment of Financial Contribution and Bonds Form (informed by the Fingal County Council Development Contribution Scheme 2016-2020) was issued by Fingal County Council's Bonds and Contributions Section. It took into account the demolition onsite required to facilitate DC1, DC2 and DC3, noting a total demolition area necessary to facilitate the proposed development of 14,940sqm. When construction of DC1 commenced in 2022, 1/3 (€712,008.45) of the total financial contributions owed (€2,136,025.35) was paid to the Planning Authority. The remaining 2/3 of the development contribution (including the deduction for demolition) was to be paid at the commencement of development of DC2 and DC3. In turn, it is noted

that only a third of the benefit of the total demolition area was included within planning contributions paid, considering the final 2/3 of the permit development is yet to be commenced, and in the knowledge that permitted development Reg. Ref. FW26A/0021E now amalgamates these future phases, the benefit of the previous areas of demolition, should apply in the calculation of financial contributions relating to Reg. Ref. FW26A/0021E. Section 23(t) of the financial contribution scheme is referenced in this regard. It is clear from the description of the permitted development (which references the following '*permission Ref. FW17A/0167 (for demolition of existing warehouse and construct of 3 no. data centres and associated works)*') demolition of the previous warehouse was required to facilitate the project now proposed. It is submitted that 2/3 of the demolition area accounted for under Reg. Ref. FW18A/0114 should have been applied in this instance, and so the overall reduced calculations fee applied.

- Further to this, the Planning Authority has failed to exclude the area of the Substation and Energy Centre proposed as part of this application from the total area leviable for development contribution calculations, with both elements being exempt under Section 23(q) of the Fingal County Council Development Contribution Scheme 2026-2030. It is also submitted that the Planning Authority has previously accepted that the development of Energy Centres/BESS Facilities on this site is exempted from development contributions and has previously amended financial contributions on this basis, on foot of miscalculation. Reference is made to the Final Grant Notice issued in the context of Reg. Ref. FW24A/0246E which noted deletion of Condition No. 7 (the financial contribution condition), pursuant to Section 146A(a)(i) of the Planning and Development Act, 2000 (as amended).
- Finally, the Planning Authority has failed to take account of the levies already paid in relation to the existing building demolished to facilitate the proposed development. The building in question (i.e. the Former Brian Daly Warehouse) has already been levied for development contributions in the previous permissions, which consented to its development. Therefore, in line with the 'Development Contribution Guidelines', the Planning Authority is required to charge only net additional development in cases of redevelopment projects.. The original warehouse on site was granted permission in November 1999

(Reg. Ref. 99A/0992). This grant of permission was subject to 11 no. conditions, including Conditions No. 8, 10 and 11 relating to the provision of financial contributions. It is considered that the FCC development contribution condition has been based on the new gross floor area alone and has failed to take into account the levies previously paid. Therefore, Condition No. 21 is a "double charging" for the redevelopment of the site which is contrary to national planning guidance

- Taking into account the above errors in calculation, the total financial contribution within Condition No. 21 should have been €1,297,148.60. This is a difference of €1,216,280.56 from the financial contribution specified. The following basis for this revised financial contribution figure is outlined:
  - Substation exemption: 23,901sqm – 173sqm = 23,728sqm.
  - Energy centre exemption: 23,728sqm – 1,433sqm = 22,295sqm.
  - 2/3 of 14,940sqm (total demolition area under Reg. Ref. FW18A/0114) equates to 9,960sqm. In turn, this amount is subtracted from the applicable site area to be levied: 22,295sqm (gross floor space of proposed works in sqm – discounts) – 9,960sqm (2/3 demolition area) = 12,335sqm.
  - Commercial Levy Due - €105.16 per sqm = 12,335sqm x €105.16 = €1,297,148.60.

7.2. **Planning Authority Response**

The Planning Authority response can be summarised as follows:

- In the context of the claims made that the substation and energy centre were mistakenly included within the area to be levy to be calculated, it is noted that the assessment of financial contributions was carried out on the basis the total floor area measuring 23,901sqm. The energy centre and ESB substation were not included in the measured floor area. A subsequent re-appraisal was undertaken which established the Total floor Area of the Data Centre to be 23,680sqm resulting in a financial contribution due in the amount of €2,490,188.80.

- In the context of claims made regarding the financial contribution calculation not taking account of permitted relevant permitted demolition on site, Fingal County Council agrees to apply the full demolition exemption to the contributions assessed under Reg. Ref. FW18A/0114 and apply any credit adjustment to the Reg. Ref. FW26A/0021 invoice.
- In response to the "double-charging" claims, as noted previously an exemption will be applied on the Reg. Ref. FW18A/0114 permission in respect of demolition of the warehouse built on foot of Reg. Ref. 99A/0992 as per Fingal County Council Development Contribution Scheme 2026-2030. It is requested that Condition No. 21 be assessed based on the adjusted measurement provided of 23,680sqm.

7.3. Observations

- None.

7.4. Further Responses

- None.

8.0 Assessment

8.1. This is a first party appeal against a financial contribution condition (Condition No. 21) that was included as part of the decision of the Planning Authority to grant permission for the subject development. As this is an appeal in respect of conditions requiring a financial contribution, the provisions of Section 48 of the Planning and Development Act, 2000 (as amended), apply and the Coimisiún is restricted to considering this matter alone. The matter cannot be consider de novo. I have therefore confined my assessment to the condition in question.

8.2. Section 48 of the Planning and Development Act, 2000 (as amended), provides for the attachment of financial contributions conditions, the basis for which must be set out within a Development Contribution Scheme. The Fingal County Council Development Contribution Scheme 2026-2030 is the applicable contribution scheme in this instance.

Baseline

8.3. Concerns have been raised by the appellants regarding the square metreage forming the starting point of the levy calculation. In their response to the first party appeal, the Planning Authority has acknowledged an error in their initial calculation of the same. Therefore, before considering the applicability of the exemptions/reductions to the contributions payable outlined in Paragraphs 23 and 25 of the current Development Contributions Scheme, the baseline square metreage/levies payable must first be established.

8.4. Upon review of the plans and material accompanying the application, the gross floor area forming the basis for financial contribution levy calculation equates to 24,715sqm. This figure is made up of the data centre building (22,296sqm), the energy centre (1433sqm), the substation (173sqm), the bicycle shelter structures (56sqm) and the car parking area associated with the data centre (757sqm).

8.5. In the context of the car parking area, as outlined previously in Section 6.2.2, exemptions are outlined for carparking in Paragraph 23(u). The wording contained in this paragraph is quite specific, stating clearly that in the context of non-residential development the exemption applies to car parking ancillary to the proposed use of the building which is underground, multi-storey or undercroft car-parking integrated within a building. Given the car parking area provided is at surface level separate to the proposed buildings, its associated square metreage requires inclusion in the baseline figures. By my calculations (which are informed by the method of calculation outlined in Paragraph 17 of the Fingal County Council Development Contribution Scheme 2026-2030), the car parking area serving the data centre building equates to 757sqm (based on 54 no. normal/EV charging spaces (measuring 2.5m x 5m) totalling 675sqm and an area of accessible car parking spaces totalling 82sqm).

8.6. **On the basis of a square metreage of 24,715sqm, the baseline levy payable is €2,599,029.40 (24,715sqm x €105.16 per sqm).** The applicability of the exemptions/reductions to the contributions payable outlined in Paragraphs 23 and 25 of the current Development Contributions Scheme and other matters impacting contributions due raised by the appellants are considered in the subsequent sections.

Exemption outlined in Paragraph 23(q)

8.7. The subject proposal includes the provision of a 173sqm 10MVA/38kV substation and a 1433sqm energy centre. Both the appellants and the Planning Authority are of the view that both these aspects of the development fall within the list of developments outlined in Paragraph 23(q). I share this view.

8.8. Further to this, I also consider this exemption to cover the bicycle shelter structures (56sqm) provided as part of the subject application. **Applying the reduction in square metreage, associated with the substation, energy centre and the bicycle shelter structures, the resultant square metreage forming the basis for levy calculations is 23,053sqm.**

Exemption outlined in Paragraph 23(t)

8.9. Noting Paragraph 23(t), the appellant claims that the Planning Authority, when calculating this condition, have not taken into account a reduction in the applicable area to be levied stemming from the previous demolition works on site. The total demolition area necessary to facilitate the proposed development equates to 14,940sqm. When construction of DC1 commenced in 2022 on foot of Reg. Ref. FW18A/0114, 1/3 (€712,008.45) of the total financial contributions owed (€2,136,025.35) was paid to the Planning Authority. The remaining 2/3 of the development contribution (including the deduction for demolition) was to be paid at the commencement of development of DC2 and DC3. As demolition of the previous warehouse was required to facilitate the project now proposed, it is argued that 2/3 of the demolition area accounted for under Reg. Ref. FW18A/0114 should have been applied in this instance, and so the overall reduced calculations fee applied.

8.10. Paragraph 23(t) provides an exemption in the context of demolition/rebuild where permission is granted to demolish in part or in full an existing building and replace it with another. In this regard, it is noted that demolition must be necessary to facilitate the proposed development. In applying the exemptions set out in Paragraph 23 of the Fingal County Council Development Contribution Scheme 2026-2030, regard must be had to the immediately preceding paragraph. Paragraph 22 of the Fingal County Council Development Contribution Scheme 2026-2030 states the following:

For the purposes of the applicability of the exemptions set out hereunder, the "development" shall be the development the subject matter of the grant of planning permission to which a s.48 Development Contribution Condition has been imposed.

8.11. While the subject application makes reference to Reg. Ref. FW17A/0167, which allowed for demolition of the existing warehouse, the subject matter of the current grant of planning permission does not include any demolition proposals. Therefore, to apply the exemption pertaining to demolition/rebuild outlined in Paragraph 23(t) in calculating the financial contributions owing in this instance would be contrary to the Paragraph 22 stipulations. Therefore, there is no modification to the applicable square metreage informing the levy calculation required on foot of the exemption outlined in Paragraph 23(t) in this instance.

8.12. Invoice issuance/payment in the context of financial contribution levy conditions is not a matter for the Coimisiún, their consideration being limited to the appropriate application of the development contribution scheme under Section 48(10)(b). However, it is noted that the Planning Authority in their submission outlines that a credit adjustment will be applied to the Reg. Ref. FW26A/0021 financial contributions invoice having regard to the full demolition exemption to the contributions assessed under Reg. Ref. FW18A/0114.

"Double-charging" of Levies

8.13. The appellants contend that the Planning Authority has failed to take account of the levies already paid in relation to the existing building demolished to facilitate the proposed development. It is argued that levies previously paid in the context of the building of the original Former Brian Daly Warehouse were not taken into account when calculating the subject levies and that a "double-charging" has occurred, contrary to the 'Development Contribution Guidelines'. Specific reference is made to the following paragraph of text featuring in Chapter 2 of the same which reads as follows: - '*The practice of "double charging" is inconsistent with both the primary objective of levying development contributions and with the spirit of capturing "planning gain" in an equitable manner. Authorities are reminded that any development contribution already levied and paid in respect of a given development should be* *deducted from the subsequent charge so as to reflect that this development had already made a contribution'*.

8.14. While contributions were paid in the context of the Conditions No. 8, 10 and 11 of the Grant of Permission under Reg. Ref. 99A/0992, I do not agree that the payment of a financial contribution levy in conjunction with the subject application amounts to a "double-charging" as suggested. I note that the paragraph quoted does not make reference to levies paid in relation to a particular site but rather '*a given development'*. The original Former Brian Daly Warehouse, approved on foot of Reg. Ref. 99A/0992, comprised of a manufacturing and distribution building. The nature of that development was inherently different to the subject proposal which involves the provision of a data centre, an energy centre, a substation and associated works.

8.15. Further to this, as outlined in the first party appeal submission, exemptions were applied for the necessary demolition of this building in the context of the parent permission (Reg. Ref. FW17A/0167) for construction of the data centres.

Conclusion

8.16. Having regard to the above assessment of the applicability of the various exemptions and reductions outlined in Paragraphs 23 and 25 of the Fingal County Council Development Contribution Scheme 2026-2030, **I conclude that the square metreage to be used in calculating the financial contribution levy is 23,053sqm. On this basis, the levy payable is €2,424,253.48 (23,053sqm x €105.16 per sqm).**

8.17. In light of this, I consider that the Planning Authority in conditioning a contribution under Section 48 have incorrectly applied the terms of the Fingal County Council Development Contribution Scheme 2026-2030. Condition No. 21, therefore, should be amended to reflect the correct levy payable as outlined above.

9.0 AA Screening

9.1. Not relevant.

10.0 Water Framework Directive

10.1. Not relevant.

11.0 Recommendation

11.1. The Coimisiún, 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 have not been properly applied in respect of Condition No. 21 and directs the said Council to **AMEND** Condition No. 21.

12.0 Reasons and Considerations

Having regard to:

(a) the Fingal County Council Development Contribution Scheme 2026-2030, in particular Paragraphs 22-25; and

(b) the submissions made in the first party appeal and Planning Authority Response,

it is considered that the terms of the Development Contribution Scheme were not correctly applied in respect of Condition No. 21 of Reg. Ref. FW26A/0021 and that the Planning Authority is directed to amend Condition No. 21 as set out below:

21. The developer shall pay to the planning authority a financial contribution of ***€2,424,253.48*** *(two million four hundred and twenty four thousand two hundred and fifty three euro and forty eight cents) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act, 2000 (as amended). The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment.*

Reason*: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission*

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Margaret Commane
Senior Planning Inspector

13th July 2026