

An  
Coimisiún  
Pleanála

Commission Order  
ABP-322882-25

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**Planning and Development Act 2000, as amended**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 25/60025**

**Appeal by** Briargate Development Newbridge Limited care of SCA of Unit 217, Glencullen House, Kylemore Road, Dublin against the decision made on the 29<sup>th</sup> day of May, 2025 by Kildare County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Amendments and alterations to previously permitted strategic housing development granted by An Bord Pleanála (the "Board") (appeal reference number ABP-312704-22) comprising the omission from the previously permitted development of 20 number dwellings at the southern end of the site. The lands the subject of these 20 number dwellings cannot now be developed as 14 number dwellings have been completed on those lands under and in accordance with a separate permission granted by the Board (appeal reference number ABP-249038-17, planning register reference number 16/0658). Permission is also sought for alterations to two number public open spaces to facilitate surface water management features comprising a detention basin and pond/wetland, all at Curragh Farm, Ballymany, Newbridge, County Kildare.

## Decision

Having regard to the nature of the conditions the subject of the appeal, the Commission is satisfied that the determination by the Commission of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act 2000, as amended, to REMOVE condition numbers 3, 5, 7, 9, 10, 15 and 16 and the reasons therefor and to AMEND condition numbers 8, 11, 12, 13 and 14 so that they shall be as follows for the reasons set out.

The Commission, in accordance with section 48 of the Planning and Development Act 2000, as amended, considered that, based on the reasons and considerations set out below, the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 17 and directs the said Council to REMOVE condition number 17 and the reason therefor.

8. The developer shall keep full records akin to the statutory 'Safety File', including paper digital and photographic records of all sustainable drainage systems. Records shall include the operation, implementation and maintenance and repair of the sustainable drainage systems.

**Reason:** To ensure proper and sustainable servicing of the proposed development and to prevent pollution and flooding.

11. The developer shall be responsible for repairing and reinstating any failures to the Sustainable Urban Drainage Systems (SuDS) infrastructure or until taken in charge by the planning authority.

**Reason:** To prevent flooding and in the interest of sustainable drainage.



12. (a) The developer shall retain the services of a qualified Landscape Architect (or qualified Landscape designer) as a landscape consultant throughout the construction works in respect of the alterations hereby permitted to the two number public open spaces to facilitate surface water management features comprising a detention basin and a pond/wetland. A practical completion certificate shall be signed off by the Landscape Architect/Designer when all landscape works are fully completed to the satisfaction of the planning authority and in accordance with the permitted landscape proposals.
- (b) All landscaping works shall be completed, within the first planting season following commencement of development (as referred to in (a)), in accordance with the submitted plans to the planning authority. Any trees and hedging which die, are removed or become seriously damaged or diseased, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority or until the estate is taken in charge. Tree planting shall be carried out to the British Standard, BS: 8545:2014: Trees from nursery to independence in the landscape.

**Reason:** To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and the area, in the interest of biodiversity, amenity and climate actions and in accordance with the relevant green infrastructure, landscape and environmental policies.

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13. (a) The proposed play item, tower and net NR01004, on drawing 101 Kennedy Fitzpatrick Landscape Architecture shall be removed and replaced with an alternative piece of play equipment.
- (b) Surfacing noted on the submitted plans and particulars as 'Soft play surface' shall be replaced with safety grass matting that conforms to European Standards.
- (c) Prior to installation of the play equipment, the developer shall submit to, and agree in writing with, the planning authority the choice of alternative equipment (as per (a) above) and safety surfacing along with specifications and proof that all equipment conforms to current European Standards EN 1176-1-11 and EN 1177 Playground equipment and surfacing. Post installation certification by the Royal Society for the Prevention of Accidents shall also be a requirement.

**Reason:** To minimise future maintenance costs and cater for quality play provision in residential developments.

14. The landscaping scheme shown on drawing number 101 Kennedy Fitzpatrick Landscape Architecture shall be carried out within the first planting season following substantial completion of external construction works. In addition to the proposals in the submitted scheme, the following shall be carried out:
- (a) Proposed paving in Detail Area 1 below the cube seating and in Detail Area 2 below the proposed star bench, on drawing 101, shall be replaced with a bound surface.
- (b) All seating shall be constructed of stone, metal or recycled composite timber.

**Reason:** To minimise future maintenance costs.



## Reasons and Considerations

Having regard to the terms of both the parent permission (ABP-321704-22) and the 'Phase 1' permission (PL09.249038/planning register reference number 16/658), the terms of which remain relevant, and given the submitted plans and particulars included with the subject planning application it is considered that condition numbers 3, 16 and 17 are not relevant or reasonably related to the development concerned (i.e. the modifications proposed to the previously permitted development).

In respect of condition numbers 5 and 9, it is considered that, having regard to the advanced stage of construction on site, existing site constraints having regard to the archaeological exclusion zone, and the documented agreements in respect of surface water drainage arrangements generally, it would not be reasonable to require a retrofit of the already permitted surface water drainage arrangements to provide for an increased climate change allowance in the limited context of the provision of two attenuation surface features within the permitted public amenity spaces. Furthermore, it is considered that both conditions would internally conflict with condition number 6 which requires the implementation in full of the Sustainable Urban Drainage Systems (SuDS) Scheme Design drawings received on 16<sup>th</sup> January, 2025 which include detailed surface water drainage calculations and drawings.

In respect of condition numbers 7, 10, and 15, it is considered that these conditions are not necessary in that what is sought by the condition is provided for in the plans and particulars by reference to which the permission is being granted.



**Amended condition number 8:**

The submitted Stormwater Management Plan includes for the operation and maintenance requirements, as such, there is no requirement for condition number 8 to seek what is clearly provided for in the plans and particulars by reference to which the permission is being granted, however, as the proposed SuDS features are integral to the SuDS scheme the requirement to keep records is appropriate to retain within an amended condition number 8.

**Amended condition number 11:**

It is considered that the amended condition number 11 would allow for the responsibility to transfer from the developer to the planning authority in the event that the public spaces and integrated SuDS features are taken in charge.

**Amended condition number 12:**

Modifications are being proposed to two key public amenity spaces within the scheme and the supervision of a qualified landscape architect/consult would be appropriate to ensure the satisfactory landscape treatment of the relevant areas of public amenity space and how they interact with the proposed new attenuation surface features.

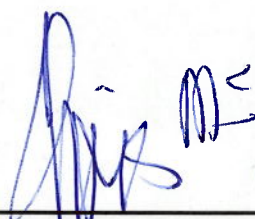
**Amended condition number 13:**

The amended condition number 13 would appropriately facilitate the agreement of the choice of alternative play equipment between the developer and the planning authority in respect of the play areas limited to the development concerned.

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**Amended condition number 14:**

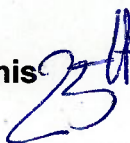
Having regard to the submitted plans and particulars, it is considered that an amended condition number 14 would ensure that further amendment to the proposed paving detail and seating can be so specified without further matters to be agreed in writing with the planning authority. As such, there is no requirement for condition number 14 to seek what is clearly provided for in the plans and particulars by reference to which the permission is being granted.



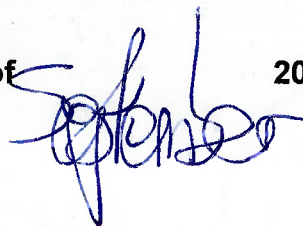
**Chris McGarry**

**Planning Commissioner of An Coimisiún  
Pleanála duly authorised to authenticate  
the seal of the Commission.**

Dated this



day of



2025.