



An
Coimisiún
Pleanála

Inspector's Report

ACP-322882-25

Development	Large-scale Residential Development (LRD): amendments to previously granted development under ABP-312704-22 (ballymanyshd.ie)
Location	Curragh Farm, Ballymany, Newbridge, Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2560025
Applicant(s)	Briargate Developments Newbridge Limited
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First Party
Appellant(s)	Briargate Developments Newbridge Limited
Observer(s)	None
Date of Site Inspection	3 September 2025
Inspector	Claire McVeigh

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1.0 Introduction

- 1.1. The subject planning application relates to the completion of a residential estate 'Curragh Farm' in Newbridge, Co. Kildare. Construction commenced in 2020 with the first phase (Phase 1) completed in accordance with planning register reference 16/658 PL09.249038, as revised following replacement of the original submitted detached and semi-detached dwellings with apartments/duplex dwellings. I highlight to the Commission that a total of 280 dwelling units were permitted, following revised drawings to increase the density on the subject site, and the planning permission was for a period of 10 years. Subsequently a Strategic Housing Development (SHD) application (Ref: ABP-312704-22) was granted in September 2022, for 336 dwelling units on the SHD lands and 54 dwelling units plus link road already under development under planning register reference 16/658 PL09.249038. Development under the SHD permission commenced in late 2022. Therefore, a total of 390 dwelling units combined. (Details of relevant planning history in section 6.0)
- 1.2. In the interests of clarity, the subject site is being developed with a hybrid implementation in part of both planning register reference 16/658 as amended by permission by the Board (now An Coimisiún Pleanála) under PL09.249038 as 'Phase 1' and the SHD permission ABP-312707-22.
- 1.3. This subject appeal relates to amendments proposed to the SHD application, as detailed in section 3.0 below.

2.0 Site Location and Description

- 2.1. The subject site is located to the southwest of Newbridge town, Co. Kildare. The site is approximately 800m to the northeast of the junction of the Ballymany Road and the M7 Dublin to Limerick motorway. The site is positioned on the edge of Newbridge settlement boundary and sits between the R445 (Ballymany Road) and the Standhouse Road. The Standhouse Road connects Newbridge with the Curragh Racecourse.

- 2.2. The adjoining lands to the west and southwest are in agricultural and equine use. The lands to the northeast are primarily in residential use. Lands to the east are in commercial/retail use. The main access to the subject site is via the link road 'Curragh Farm' off the R445 (Ballymany Road) is complete and there is temporary hoarding closing off access to the active construction site section of the link road within the subject site.
- 2.3. Part of the development comprising 68 no. dwellings and the link road were commenced in accordance with the permission 16/658 PL09.249038 in 2020. As stated in the covering letter submitted by *SCA Planning & Development Consultants* on behalf of the applicant Urban Blocks 6,7,9 and part of Blocks 8,11 and 12 of the SHD permission have been completed and sold.
- 2.4. From my site visit I highlight to the Commission that further blocks have been substantially completed, including Urban Block 15 and Urban Block 13 and part of Urban Block 14. Construction has also commenced on the apartment block to the northwest of the site (Urban Block 16) as per the submitted SHD ABP 312704-22.

3.0 Proposed Development

- 3.1. The proposed development seeks to amend the boundary of the previously permitted Strategic Housing Development (SHD), reference ABP-312704-22. The modified boundary would exclude 20 no. units which were previously granted permission under SHD application ABP 312704-22 at the southern end of the site. 14 no. dwelling have been completed on those lands under permission PL09.249038 16/0658. (equates to 1.3ha).
- 3.2. It is also proposed to provide surface water drainage features within two public open spaces comprising a detention basin and pond/wetland.
- Pond/wetland A2 has an area of 550sq.m and is proposed to be located in a public open space of 2, 153sq.m.
 - Detention Basin B2 has an area of 335sq.m and is proposed to be located in a public open space of 3,955sq.m.

The covering letter submitted by the applicant states that *“In combination with the 68 dwellings constructed under Ref. 249038, the overall quantum of residential development across the development site is 384, a net reduction of 6 units”*.

For clarity the SHD permission allowed for a total of 336 no. residential units and there was an existing 54 residential units constructed under the permission PL09.249038 16/0658 (referred to as Phase 1). No changes are proposed to the 316 dwellings and creche within the reduced site area.

4.0 Planning Authority Pre-Application Opinion

4.1. A pre-application meeting was held on the 14 May 2024 (PP Ref. No. PP5838) between Briargate Developments Limited and the planning authority, Kildare County Council. Key issues raised included:

- Procedural issues - KCC has taken legal advice on the matter and will accept the application as an amendment under the Large-Scale Residential (LRD) process.
- Traffic & transportation Issues - Roads Design team recommended a Traffic and Transport Assessment (TTA) be carried out prior to the application as an update for the revisions proposed. Requested an update on the construction and completion of the link road and signalised junction at Standhouse Road. Parking is required to comply with the standards set out in the Kildare County Development Plan 2023-2029. Outlined detailed road design requirements. Issue raised that the development work was not carried out in line with the plans and particulars of the permission granted.
- Open space & surface water management issues - Noted some compliance issues with respect to surface water are outstanding but nearing completion. The planning authority are keen to ensure that any issue of compliance within the red site boundary is addressed before the lodgement of an application, in case there are implications that would require permission due to changes to surface water management.
- Appropriate assessment screening necessary for the proposed modifications to the permitted development.

Subsequently letter issued from Kildare County Council on 29 August 2024 confirming that an LRD meeting under Section 32B is not required given the planning authority is satisfied, having compared the proposed development to the permitted development, that –

- (a) the proposed development is substantially the same as the permitted development, and
- (b) the nature, scale and effect of any alternations to the permitted development are not such that require the consultation process to be repeated.

5.0 Planning Authority Decision

5.1. Decision

On the 29 May 2025 the planning authority granted permission subject to 17 no. conditions.

5.2. Planning Authority Reports

5.2.1. Planning Reports

Initial report dated 11 March 2025 requests further information in relation to:

- A revised site layout plan indicating mitigation measures addressing the driveways directly fronting and accessing onto the intended distributor function of the road as outlined in Objective SRO5 of the Newbridge Local Area Plan.
- Concerns about the proposed design for the detention basin storage B2, as a basin over a tank is not suitable for maintenance requirements into the future. It is requested that the applicant utilises other form of surface water management that have the potential to fit into the space e.g. a linear swale in tandem with a tank.
- A revised landscape plan showing the type of playground equipment being proposed in the open space area, an updated taking in charge map and management plan which addresses the revised SuDS measures.

Second report 22 May 2025 following receipt of further information:

- Having reviewed the site history which relates to the Board's decision under PL09.249038 to grant the layout of the link road and driveways directly accessing same and that the driveways have been subsequently constructed it would be unreasonable to recommend refusal at this juncture. Notes the conditions in the event of a grant of permission recommended by the Transport, Mobility and Open Spaces Department.
- Notes the compliance report in which the Water Services state that the technical aspects of the drainage proposals are acceptable. An updated Water Services report received citing no objections subject to conditions.
- Drawing KFla Drawing No. 101 (Detail Areas & Play Strategy), a Stormwater Management Plan prepared by Muir Associates and the Taking in Charge Map noted and accepted by the Parks department.
- AA screening found that significant effects are not likely to arise, either alone or in combination with other plans or projects to the Natura 2000 network.
- EIA Screening report concludes that EIA screening determination or EIA is not required.

5.2.2. Other Technical Reports

Housing Section Report: Part V agreement is currently in place. Conditions attached to maintain Part V obligation on this scheme.

Environment Section: No objection subject to conditions relating to construction practices and noise limits.

Roads, Transportation and Public Safety Department: Concerns raised relating to the driveways directly fronting and accessing onto the road objective and requests further information and a revised site layout plan indicating mitigation measures to address their concerns relating to the hazard and impediment to lines of sight and vulnerable road user safety on the road objective with a 50km speed limit.

Transport, Mobility and Open Spaces Department: Planning Report 2 - Recommends a refusal as the retention of development, not approved under planning register reference 22/312704 is a gross dis-improvement of the permitted 4 no. urban blocks of this permission in that these driveways will impede the distributor

function of the road objective SRO5 of the Newbridge Local Area Plan. Conditions included if the planning authority wish to grant planning permission.

Environmental Health Officer: No objections subject to a construction management plan being submitted and agreed.

Environment (Water Services): No objections subject to 7 no. conditions relating to surface water management/flood risk.

Kildare Fire Service: No objection.

Kildare/Newbridge Municipal District: No objection subject to standard conditions.

Parks Section, Transport, Mobility and Open Spaces: Standard conditions recommended in relation to landscape design, play provision, pathways and seating and taking in charge. Report following FI includes recommended conditions.

5.2.3. Conditions

The subject appeal relates directly to conditions 3, 5, 7, 8, 9, 10, 11, 12, 13 (c), 14 (c) and 14 (d), 15, 16 & 17 I do not intend on duplicating these in this section. Please refer to the grounds of appeal in section 8.1.

Other conditions to note are as follows:

Condition no. 1 Standard Plans & Particulars

Condition no. 2 Condition tying the permission to the parent permission ABP Ref 312704-22 and shall expire on the same date.

Condition no. 4 the two public open space areas shall be developed in accordance with the revised drawing KFLA Drawing No. 101 (Detail Areas & Play Strategy) received by the planning authority on 02/05/2025.

Condition no. 6 The Sustainable Urban Drainage Systems (SuDS) Scheme Design carried out by Muir Consulting Engineers, outlined on planning-stage design drawings D1920- MAL-00-XX-C521 Rev G, D1920-MAL-00-XX-C-522 Rev G, D1920-MAL-00- XX-C-530 Rev D contained within the Planning Drawings Pack both received on 16th January 2025 shall be implemented in full unless otherwise agreed with the Planning Authority.

Condition no. 13 (a) The proposed play item, Tower and Net, NRO1004, on drawing 101 from KFLA shall be removed and amended as it contains features not in line with standard parks requirements.

(b) Detail area 1, on drawing 101 from KFLA contains a surfacing noted as Soft Play Surface, this shall be amended to safety grass matting.

5.3. Prescribed Bodies

None.

5.4. Third Party Observations

None.

6.0 Planning History

PL09.249038 Planning register reference 16/658 An Bord Pleanála granted permission on 13 April 2018 for:

A mixed-use development comprising a total of 220 number dwelling houses, a single storey crèche facility (307 square metres gross floor area) and a 120 number bedroom nursing home facility two storeys in height (7,117 square metres gross floor area). The proposed dwelling houses are in terraced, semi-detached and detached format and range in height from one to two and a half storeys. Specified dwellings have the option for dormer windows in roof slopes to facilitate the option to convert the attic space of these dwellings to habitable accommodation. The proposed development also provides for the construction of a section of a new link road (circa 647 metres) along the western part of the site incorporating a new signalised junction off Standhouse Road in accordance with SRO 5 of the Newbridge Local Area Plan 2013-2019. A new vehicular access serving the proposed nursing home is also proposed off Standhouse Road. It is also proposed to provide a new vehicular access off Ballymany Road (R445) to the south. A new pumping station is proposed in the north-western part of site. The proposed development will also provide for all site PL 09.249038 Board Order Page 2 of 10 development works including alterations to ground levels and the removal and/or reuse of existing stockpiled

material on site, the construction of crib (retaining) walls, the rerouting and undergrounding of overhead cables, internal access road, car parkin, footpaths, cycle paths, open space, public lighting, landscaping, two number electricity sub-stations, services and boundary treatments, all on site at Ballymany, Newbridge, County Kildare. The application site is bounded to the north by Standhouse Road and the rear of dwellings fronting that road, to the south by Ballymany Road (R445) and the rear/side of dwellings fronting that road; to the east by the Keadean Hotel, the gardens of houses in the Elms housing development and a playing field and to the west by farmland.

Applicant Cowlara Limited.

Condition No. 1 development to be carried out in accordance with plans and particulars submitted to An Bord Pleanala on 11 January 2018 (as per Solution 2 of the section 137 response).

The application is for planning permission for a period of 10 years. (As amended by the revised public notice received by An Bord Pleanála on the 14th day of February 2018 as follows: replacement of the original submitted detached and semi-detached dwellings with apartments/duplex dwellings. The revisions result in an increase in the overall number of dwellings from 220 number to 280 number).

Works began at the subject site on foot pf this permission in 2020 and is referred to as 'Phase 1' in the subject application.

ABP-303049-18 Vacant Site Levy – The Board determined that based on the information before it, the site was not a vacant site within the meaning of the Urban Regeneration and Housing Act, 2015, as amended.

ABP-305410-19 – Amendments to Initial Phase of Development granted permission under ref. 249038 refused for the following reason:

1. The site of the proposed development is located on residentially zoned (Objective C2) and serviced lands within the boundary of Newbridge Town, and in close proximity to a range of established community facilities and services and in a location (Larger Town – Outer Suburban) where paragraph

5.11 of the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities issued by the Department of Environment, Housing and Local Government in May 2009 states that the greatest efficiency in land usage will be achieved by providing net residential densities in the general range of 35-50 units per hectare and where development at net densities less than 30 units per hectare should generally be discouraged in the interests of land efficiency. Compliance with the density provisions of these guidelines is supported by Section 4.5 of the Kildare County Development Plan, 2017-2023 and Policies LD01 and LD03 of the same plan which states that it is policy to ensure that the density of residential development maximises the value of existing and planned physical and social infrastructure and makes efficient use of zoned lands and that it is policy to require higher residential densities at appropriate locations as set out in the Sustainable Residential Development in Urban Areas Guidelines. Notwithstanding the specific density provisions of the Newbridge Local Area Plan, 2013-2019 (extended until 2021) which indicates a maximum density of 15 units per hectare on lands zoned Objective C2, it is considered that the proposed development of 22.6 units per hectare and the impact of the proposed amendment on the density of the overall residential development of the appeal site and adjoining lands to the north which would increase to approximately 24.3 units per hectare, would therefore result in a form of development which would result in an inefficient use of scarce zoned and serviced lands, and which would be contrary to the provisions of the Guidelines and the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

ABP-310912-21 Strategic Housing Development (SHD) An Bord Pleanála refused permission on 10th November 2021 for the construction of 336 no. residential units consisting of 245 houses, 27 no. apartments and 64 duplexes for the following reason:

1. Having regard to the provisions as set out under paragraph 10 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended the proposed development falls within class 10(b)(iv) of the Regulations as the gross site area is stated to be 11.42 hectares and is in excess of the 10

hectares threshold as specified in the Regulations, therefore, an Environmental Impact Assessment Report is mandatory requirement in this case. As the application was not accompanied by an Environmental Impact Assessment Report permission is hereby refused in accordance with the provisions of sub section 5 of section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 as amended.

ABP- 321704-22 Strategic Housing Development (SHD) An Bord Pleanála granted permission on the 6 September 2022 for the future phases of a residential development of which Phase 1 (54 number units and Link Road) is currently under construction on foot of Kildare County Council Planning Register Reference 16/658 (An Bord Pleanála Reference Number PL09.249038), which provided for 280 number dwellings, creche, nursing home and Link Road. The overall development will provide 390 number units and creche on completion.

1. Construction of 336 number residential units consisting of 245 number houses, 27 number apartments and 64 number duplexes.
2. The 245 houses will comprise two-storey, detached, semi-detached and terraced units to include:
 - 17 number two-bed houses,
 - 184 number three-bed houses,
 - 44 number four-bed houses,
3. The 27 number apartments are located in a part three-storey and part four storey building and include:
 - 13 number one-bed units,
 - 13 number two-bed units,
 - One number three-bed units.
4. The 64 number duplexes are located across six number two and three storey buildings and include:
 - 32 number one-bed units,

- 16 number two-bed units
5. A two storey creche,
 6. Car parking, bicycle parking, internal roads, services infrastructure, bin stores and bicycle stores,
 7. Footpath improvements along Standhouse Road,
 8. Landscaping, open spaces, play areas, boundary treatment and public lighting,
 9. All associated site works and services all located at Ballymany, Newbridge, County Kildare.

Planning permission expires 20 October 2027.

7.0 Policy Context

7.1. National Policy

Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the reports and submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), Department of Housing, Local Government and Heritage.
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).

Other relevant national guidelines include:

- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

- Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas Water Sensitive Urban Design Best Practice Interim Guidance Document, Department of Housing, Local Government and Heritage (2021).

7.2. Kildare County Development Plan 2023-2029 (the development plan)

Newbridge, within the Kildare/Newbridge Municipal District, is a designated self-sustaining growth town (Described as having a moderate level of jobs and services) within the development plan.

Chapter 6 Infrastructure & Environmental Services

Objective IN 024 Only consider underground retention solutions when all other options have been exhausted. Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution.

Chapter 15 Development management standards

7.3. Newbridge Local Area Plan 2025-2031 (Pre-draft public consultation stage initiated in November 2023)

7.4. Newbridge LAP 2013-2019 Adopted 23/12/13, Effective from 29/1/2014 - Incorporating Amendment No. 1 effective from 16th October 2015 and extended on 19th December 2018 to 22nd December 2021.

I highlight for the Commission that on Kildare County Council's website it is stated that "*Kildare County Council will have regard to the following adopted Local Area Plans until such time as they are reviewed or another plan made*".

The subject site is located on C2 New Residential (15.1ha)

Movement Objective (Map 2)

Lands zoned C2 have a prescribed maximum density of 15 units per ha. Refer to Table 17.

Section 7.8.4 Surface Water Drainage and policy SW1-SW8.

SRO5: To seek the construction of the following transport links, subject to environmental and conservation considerations, as identified on Maps 2 and 7 and to preserve these routes free from development:

(b) A link from the L7042 Green Road (C) to the L7037 Standhouse Road (E), including a new junction with the R445 Ballymany Road (D).

The design of these transport links shall be in accordance with the Design Manual for Urban Roads and Streets (DMURS).

7.5. Natural Heritage Designations

The subject site is located 0.5 km northeast from the proposed Natural Heritage Areas: Curragh (Kildare) (Site Code 000392). The Special Area of Conservation: Pollardstown Fen SAC (Site Code 00396) and proposed Natural Heritage Areas: Pollardstown Fen is approximately 500m to the northwest of the subject site.

The River Barrow and River Nore SAC (Site Code 002162) is approximately 10.7km southwest from the subject site.

8.0 The Appeal

8.1. Grounds of Appeal

The Kildare County Council (KCC) decision to grant permission subject to conditions has been appealed by the applicant Briargate Developments Newbridge Limited.

The first party appeal is accompanied by a submission by *SCA Planning & Development Consultants* on behalf of the applicant and a Technical Note prepared by *Muir Associates Consulting Engineers*.

It is stated that the relevant application sought to amend the originally permitted SHD boundary and resolve matters that had arisen with KCC in relation to SuDS compliance submissions. The appeal outlines that the grant of permission is welcomed, however, many of the conditions imposed are considered unnecessary, unreasonable and not relevant to the development and contrary to the provisions of Section 34(3C) of the Planning and Development Act, 2000 (as amended).

The following conditions are identified in 'Table 1: Schedule of Conditions, Commentary and Requests' of the submission by SCA Planning & Development Consultants as not relevant to the development, not reasonable and contrary to Section 34(3C) and it is requested that planning permission is granted and that these conditions are omitted.

The conditions can be grouped thematically as relating to roads, surface water design & management, amenity space/landscaping and security/financial contributions:

Roads (Conditions 3)

- **Condition no. 3:** Prior to commencement of development the applicant shall submit for the written agreement of the planning authority, traffic calming measures, which address issue that may arise due to multiple driveways accessing the link road. Reason: In the interest of pedestrian and traffic safety.

Surface water design & management (Conditions 5, 7, 8, 9, 10 and 11)

- **Condition No. 5:** The proposed Surface Water Drainage System including proposed ponds, wetlands and basins shall be designed in terms of incorporating appropriate Sustainable Urban Drainage Systems (SuDS) and must contain side slopes of no steeper than 1 in 3 gradient. The design shall comply with the Kildare County Development Sustainable Urban Drainage Systems (SuDS) Guidance Document and incorporate a sequence of SuDS techniques that work together in a Management Train to control the flow, volume and frequency of runoff as well as preventing or treating pollution as water flows through the development. SuDS design shall maximise nature-based solutions and the Sustainable Drainage Systems shall be designed, inspected and supervised by a qualified Engineer who shall certify the works as compliant with regard planning compliance, design and construction. The Sustainable Drainage Systems shall cater for the 1 in 100-year storm event (or as otherwise agreed in writing and with an allowance of +30% in order to cater for "Climate Change" and an additional 10% for Urban Creep. The applicant shall ensure that surface water from the development does not discharge to a point where neighbouring developments would bear risk of

flooding. Reason: In order to ensure proper servicing and to eliminate the potential impact of pluvial flood risk.

- **Condition no. 7:** Prior to the commencement of development, the applicant shall submit final detailed design for the Sustainable Urban Drainage Systems (SuDS) and cross section views for the development inclusive of the proposed detention basins and swales. It is also requested, that where feasible the applicant utilises sustainable drainage conveyance techniques to reduce the amount of underground surface water pipework. A final scheme implementation report shall also be submitted, all for the written approval of the planning authority. The design should include but not be limited to:
 - (a) Limiting discharge rates from the site to as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event for the 1 in 1 year and 1 in 100 year rainfall events.
 - (b) Provide sufficient surface water management so that the runoff volume is discharged at a rate that does not adversely affect flood risk and unless designated to flood that no part of the site floods for a 1 in 30 event, and a 1 in 100 years evening in any part of a building, utility plant susceptible to ware within the development.
 - (c) Provide sufficient water management to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus climate change event.
 - (d) Final modelling and calculations for all areas of the Sustainable Drainage Systems.
 - (e) The appropriate level of treatment for all runoff leaving the site.
 - (f) Detailed engineering drawings of each component of the drainage scheme.
 - (g) A final drainage plan which details exceedance and conveyance routes, Finished Floor Levels (FFL) and Ground Plane Levels (GPL), and location and sizing of any drainage features.
 - (h) A written report summarising the final strategy and highlighting any changes to the approved strategy. The design shall be subsequently to

implemented prior to occupation. Reason: To ensure proper planning and sustainable servicing of the proposed development.

- **Condition no. 8:** Prior to commencement of development the applicant shall submit a Sustainable Drainage Systems (SuDS) Maintenance Plan for the written approval of the planning authority. The plan shall include a schedule of activities providing details and frequency of maintenance tasks required for all SuDS and surface water drainage elements proposed. This maintenance regime shall have planned preventative and response elements and cover all emergency maintenance and repairs. The applicant shall keep full records akin to the statutory 'Safety File' including paper, digital and photographic of all Sustainable Drainage Systems. Records to include the operation, implementation and maintenance & repair of the sustainable drainage systems. Reason: To ensure proper and sustainable servicing of the proposed development and to prevent pollution and flooding.
- **Condition no. 9:** All Sustainable Drainage Systems (SuDS) features within areas proposed for taking in charge shall be designed and constructed in accordance with Kildare County Council's Sustainable Drainage Systems (SuDS) Taking Charge Standard Details. Reason: To ensure that all areas proposed for Taking in Charge are to the required standard.
- **Condition no. 10:** No works shall take place until a scheme to minimise the risk of off-site flooding caused by surface water runoff and groundwater during construction works and prevent pollution has been submitted to and approved in writing by the planning authority. The scheme shall subsequently be implemented as approved. Reason: To prevent flooding and in the interest of sustainable drainage.
- **Condition no. 11:** The applicant shall be responsible for repairing and reinstating any failures to the Sustainable Urban Drainage systems (SuDS) infrastructure. Reason: To prevent flooding and in the interest of sustainable drainage.

Amenity space/landscaping (12)

- **Condition no. 12:** (a) The applicant shall retain the services of the qualified landscape architect (or qualified landscape designer) as a landscape

consultant throughout the life of the construction works. The developer shall inform the planning authority of that appointment in writing prior to commencement of development. A practical completion certificate shall be signed off by the landscape architect 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, 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 a similar size and species, unless otherwise agreed in writing with the planning authority or till the estate is taken in charge. Tree planting should 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 interests of biodiversity, amenity and climate action and in accordance with the relevant green infrastructure, landscape and environmental policies.

- Condition No. 13: (c) All play areas shall be designed to provide a variety of natural play opportunities and provide for universal access. Any proposed structures or items shall not contain swings, nets, ropes, or movable parts. The path network must link play areas. Some seating must be accessible and age friendly with bound surfacing beneath. Play areas in this proposed development shall be essentially natural spaces with landscaping and natural features e.g. logs mounding, boulders, sensory planting which minimise the use of play equipment. Safety surface areas shall be safety surface grass matting that conforms to European Standards. Proposed play items containing wood such as Robinia shall conform to European Standards. The applicant shall be requested to submit and agree with Kildare County Council all details for the design, choice of equipment, safety surfacing along with specification and proof that all equipment conform 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 still cater for quality play provision in residential developments.

- Condition No. 14 (c) A tarmacadam, resin bound gravel, or concrete surface shall be provided on all pathways and cycleways in open space areas. Pathways shall provide for universal access. Pathways of 2.5m wide or greater shall be suitable for occasional vehicular use inter alia maintenance, emergency. Timber edging shall not be permitted. Tarmacadam pathway edges shall be bound by concrete kerbing. Resin bound gravel pathway edges shall be bound by a metal edge or concrete kerbing. Reason: To minimise future maintenance costs.
- Condition No. 14 (d) All seating shall be constructed of stone, metal or recycled composite timber. Details of these shall be provided and clearly identified on the landscape plan. It is a requirement of the Parks Section that a bound surface shall be provided to seating locations in open space areas. Reason: To minimise future maintenance costs.
- Condition No. 15: Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority detailed 'Taking in charge' maps for the proposed development. These maps shall clearly delineate all areas to be taken in charge, including roads, footpaths, public lighting, open spaces, surface water drainage systems, and any other relevant infrastructure. The maps shall be prepared in accordance with the requirements of the planning authority, and all infrastructure intended for taking in charge shall be constructed to the satisfaction of the planning authority. Reason: To ensure that roads, footpaths, public lighting, drainage infrastructure, open spaces and other communal spaces within the development are constructed to an appropriate standard for future taking in charge by the local authority.

Security/financial contributions

- Condition No. 16: No development shall be commenced until security has been given for the provision of and satisfactory completion of open space and of services, and in accordance with the conditions herein contained and including maintenance until taken in charge by Kildare County Council of

roads, footpaths, public lighting and similar type public facilities. This security is required by Kildare County Council for application at its absolute direction if the foregoing open space and services are not duly provided as aforesaid and to Kildare County Council's satisfaction. Where the proposed development is carried out on staged or phased basis the security required shall be proportionate to each part of the development which is carried out in the foregoing manner. The security shall be given by: (a) lodgement with Kildare County Council of an approved Insurance Company Bond in the amount of €126,000 of (b) lodgement with Kildare County Council of a sum of €126,000 provided always and if the development has not commenced within one calendar year from the date of the grant of this permission or is carried out on a phased or staged basis, Kildare County Council may at its absolute discretion require an increase in the amount of the foregoing Bond or lodgement corresponding with the increase or estimated increase in the cost of the provision and completion of the services above described, and in the manner provided for, and which may have occurred since the aforesaid date. Any approved Insurance Company Bond shall be index linked. Reason: To ensure the satisfactory completion of public open spaces and services and to ensure that a ready sanction may be available to Kildare County Council towards the provision of same, and to prevent disamenity in the development.

- Condition no. 17: The applicant/developer to pay to Kildare County Council the sum of €188, 616.40 being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with Section 34 of the development Contribution Scheme adopted by Kildare County Council on 19th December 2022. Note: Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable, with Uisce Eireann. Reason: It is considered reasonable that the development should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority.

8.2. Planning Authority Response

- The Planning Authority notes the content of the appeal and confirms its decision. It refers to the Planner's reports, the reports of the various technical departments and prescribed bodies.

8.3. Observations

- None

9.0 Assessment

- 9.1. I consider that the nature of the proposed development , the conditions and factors of the appeal are such that a de novo assessment is not required, and I intend to limit consideration to the matters raised in relation to the terms of conditions no. 3, 5, 7, 8, 9, 10, 11, 12, 13 (c), 14 (c) and 14 (d), 15, 16 & 17 as per section 139 of the Planning and Development Act, as amended.

I note that the first party refers to Section 34(3C) of the Planning and Development Act, as amended, which places a restriction on the planning authority in its determination of the application to considering the modifications proposed by the applicant to the previously permitted development and for the purposes of determining such an application the reference to subsection (6) to "*the development concerned*" shall be read as a reference to "*the modifications to the previously permitted development*".

As already noted in the introduction of my report the subject site is being developed with a hybrid implementation in part of both planning register reference 16/658 as amended by permission by the Board (now An Coimisiún Pleanála) under PL09.249038 as 'Phase 1' and the SHD permission ABP-312707-22. In terms of my approach to this subject appeal I am of the view that multiple permissions can exist on a site and a developer only loses the unimplemented permission, or part thereof, when they implement another permission that prevents the first permission, or part thereof, from being implemented.

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the

local authority and having inspected the site and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issue in this appeal to be considered is:

- Whether the conditions as identified above are relevant and reasonably related to the development concerned and/or meet the basic criteria for conditions.

As stated already in my report the conditions can be grouped thematically relating to roads, surface water design & management, amenity space/landscaping and security/financial contributions. I shall address these below on a theme basis.

9.2. Roads - Condition no. 3

- 9.2.1. Condition no. 3 requires the provision of traffic calming measures to address issues that may arise due to the multiple driveways accessing the link road. The applicant states that the driveways referred to in the condition were permitted and constructed in accordance with PL09.249038 (Planning register reference 16/658). It is these 14-no. dwellings and associated driveways, at the southern end of the site, that are proposed to be excluded from the modified red line boundary. In the interests of clarity, as noted above the site is being developed with a hybrid implementation in part of both Planning Register Reference 16/658 as amended in permission by the Board (now An Coimisiún Pleanála) under PL09.249038 as Phase 1 and the SHD permission ABP-312704-22. This subject appeal relates to an amending application to regularise a change to the application red line boundary to reflect same.
- 9.2.2. Objective SRO5 (b) as detailed in section 7.4 of my report, seeks the completion of a transport link from Green Road to Standhouse Road including a new junction at Ballymany Road. By way of background in the assessment of the transport link (referred to as link road) by the inspector (under PL09.249038/planning authority reference 16/658) considered that the proposal provides for a satisfactory provision of vehicular movement to and from the site from adjoining lands via the R445 and Standhouse Road. Further traffic calming measures to the 'link road' were not considered necessary under PL09.249038 given the planned design at the outset included the use of alignment of the road to limit speed. Having regard to the guidance contained in DMURS, which highlights that the designer must balance speed management, the values of place and reasonable expectation of appropriate speed according to context and functions, I am of the view that the existing 14 no.

driveways would also provide inherent calming traffic measures on approach to the bend in the road and public open space fronting onto the R445 for this section of the link road.

- 9.2.3. I am in agreement with the applicant that “the development concerned” does not include the link road as already permitted rather it is for the regularisation of the application site boundary for the SHD application to omit that section to accurately reflect the permitted as built development, under as referred to ‘Phase 1’, on this portion of the site.

Conclusion:

- 9.2.4. In conclusion, given the restriction placed on the planning authority under section 34(3C) in its determination of the application to considering the modifications proposed and that no works are proposed to the link road, I do not consider that Condition no. 3 is relevant to the development concerned. As such, I consider that this condition should be removed.

9.3. ***Surface water design & management – Conditions no. 5, 7, 8, 9 10 and 11***

- 9.3.1. The applicant puts forward that the majority of conditions relating to ‘mostly drainage conditions’ requiring agreement prior to commencement of development are onerous and unnecessary. There are six surface water design and management conditions relevant to the appeal, as listed above. The applicant notes in the appeal submission (Table 1) that condition 6, in their opinion, is the only drainage condition that is relevant to the development proposed.

Technical note prepared by Muir Associates on behalf of the applicant refers directly to the conditions (Nos. 5-11) relating to surface water drainage and SuDS management strategy on the decision to grant permission under ABP-312704-22 (the SHD application). It is set out that under the SHD permission the surface water drainage network was based on all attenuation storage being located in underground facilities in conjunction with a number of SuDS surface features such as tree pits, bioretention systems and filter drains noting the good soil infiltration characteristics of the site which were utilised in the design of the underground attenuation storage facilities. I highlight to the Commission that during consideration of the SHD application the Water Services Department of KCC, as described in Section 5.7 of the submitted ‘Engineering Planning Report’ prepared by Muir Associated Limited,

raised issues in respect to amongst other items the need to maximise SuDS provision. On review of the Chief Executive's report, it states that "*Water Services Department has noted no objection to the proposal but has also recommended conditions requiring revision of the proposed SuDS design*". It is further stated that internal report from water services is attached as Appendix B of the CE's report. I highlight to the Commission that an internal Water Services Report is not attached to the CE report.

- 9.3.2. Notwithstanding the foregoing, it is advised by Muir Associates in the submitted technical note that during consultations on compliance with Condition No. 14 of the parent SHD application, which reads:

Condition no. 14:

Drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Reason: In the interests of public health and surface water management.

that Kildare County Council (KCC) Water Services Department requested the introduction of attenuation surface features such as ponds and basins.

In response revised proposals were tabled with KCC Water Services and as indicated in Appendix 2 of the applicant's appeal submission Water Services has accepted the proposals but note that compliance cannot be issued due to the material impact of such new features on the usability of the permitted public open spaces. The applicant was advised as part of the response to the compliance submission that the proposed SuDS features should be incorporated into a future planning application. I highlight to the Commission that in the response to the compliance submission by Kildare County Council the applicant was also advised to note the policies and objectives of the Kildare County Development Plan 2023-2029 in relation to surface water management and in particular Objective IN024 which states that '*Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution*', please see section 6.2 of my report for detail, in relation to attenuation under public open space and the Kildare County Council Sustainable Drainage Systems Guidance Document.

To now consider each contested condition in turn.

- Condition no. 5

- 9.3.3. In respect to Condition no. 5, this condition requires design of side slopes of no steeper than 1 in 3 gradient for ponds, wetlands and basins, compliance with the Kildare County Council's Sustainable Drainage Systems Guidance Document (KCC SuDS Design Guide) and that sustainable drainage systems shall cater for the 1 in 100-year storm event with an allowance of +30% in order to cater for 'Climate Change' and an additional 10% for Urban Creep.
- 9.3.4. Firstly, in respect to the side slope gradients, I note that the submitted drawings by Muir Consulting Engineers (D1920-MAL-00-XX-C-530 Rev D) do illustrate side slope gradients of 1:4 for both the pond/wetland and the detention basin which accords with the requirement of no steeper than 1:3. Condition no. 6 requires the SuDS scheme design be carried out in accordance with these submitted drawings. On this basis I do not consider it necessary to attach a condition restating same.
- 9.3.5. The submission by Muir Associates on behalf of the applicant sets out that the design of the surface water drainage network for the development is based on the climate change criteria which was current at the time of the original SHD application (ABP-312704-22) which was 20% increase in rainfall event depths.
- 9.3.6. The KCC SuDS Design Guide (2024) now includes for a climate change allowance (CCA) of 30% in response to future predictions for more extreme rainfall events that will occur with greater regularity. As such there is a greater CCA required under condition no. 5 that has been designed for within the subject application. It is argued by the applicant that the applicability of the KCC Sustainable Drainage System Guidance Documents and the CCA of 30% plus an additional 10% for climate creep is questionable as these design standards were introduced in 2024 post the construction of a large proportion of the already approved surface water drainage network on the subject site. In addition, the submission from Muir Associates stresses that KCC had accepted the overall surface water drainage arrangements for the development, as per compliance submission made in June 2024 which included detailed surface water drainage calculations and drawings. The copy of compliance notes in respect to Condition No. 14 signed by the executive planner, in Appendix 2 of the applicant's appeal submission, would in my opinion appear to corroborate this statement.

Conclusion:

9.3.7. In conclusion, having regard to the status of the construction on site, the site constraints including the archaeological exclusion zone (in public open space detail area 1) and the documented agreements in respect of surface water drainage arrangements generally, I am of the view that whilst it would be preferable to design in the current industry approach for rainfall events to the scheme it would not be reasonable to require a retrofit of the entire surface water drainage arrangements in order to stitch in with the proposed nature based solutions, namely Pond/wetland A2 and Detention Basin B2 and provide for a CCA of 30% plus 10% climate creep. As such, I recommend that condition no. 5 is removed.

- Condition no. 7

9.3.8. Condition no. 7 requires that a final detailed design for the SuDS and final scheme implementation report is submitted summarising the final strategy. As set out in the technical note submitted with the appeal a stormwater management plan which sets out the surface water design strategy together with the construction requirements and operation and maintenance requirements for the proposed SuDS features was submitted to KCC in response to a request for further information, in respect to the subject development. The applicant considers that no further submission in this regard should be necessary. Having regard to the information submitted with the application I am of the opinion that the information is not necessary where what is sought by the condition is clearly provided for in the plans and particulars submitted with the subject application.

Conclusion:

9.3.9. To conclude on this point, I consider that condition no. 7 should be removed.

- Condition no. 8

9.3.10. As above, the submitted Stormwater Management Plan includes for the operation and maintenance requirements for the proposed SuDS features.

Conclusion:

9.3.11. I note the contents of the submitted Stormwater Management Plan and recommend that condition no. 8 is amended to require the applicant to keep records akin to the statutory 'Safety File' for all sustainable drainage systems, as the proposed SuDS

features are integral to the SuDS scheme as a whole, but that there is no requirement for a further submission of another maintenance plan for written agreement with the planning authority.

- Condition no. 9

9.3.12. Condition no. 9, as per condition no. 5, requires the design of the SuDS features to accord with the KCC SuDS Design Guide. As already noted in my assessment the permitted surface water drainage network has been largely constructed prior to the introduction of the guidance document. Therefore, the requirement to retrofit an increased CCA into the scheme is in my view unreasonable in the context of the applicant's provision of two nature-based attenuation surface features.

Conclusion:

9.3.13. To conclude on this point, the detailed design and implementation of the SuDS features are addressed sufficiently by condition no. 6 and the recommended amended condition no. 8. In this regard I recommend that condition no. 9 is removed.

- Condition no. 10

9.3.14. The applicant in the appeal submission states that the development has already commenced and that a restriction on work commencing, as contained in Condition no. 10, is not appropriate. Condition no. 10 requests that no works take place until a scheme to minimise risk of offsite flooding is submitted to and agreed in writing with the planning authority.

9.3.15. It is submitted by the applicant that the development is substantially constructed on foot of application (ABP-312704-22) which included detailed Site-Specific Flood Risk Assessments (SSFRA) and, as such, this condition is not necessary, not relevant to the development and not reasonable. The technical note included with the appeal further outlines that the conclusions of the SSFRA found that the proposed development (parent permission):

- Is considered to have the required level of flood protection,
- Does not increase the flood risk to other third parties or lands,
- Meets the various requirements of the OPW guidelines in relation to flood risk.

Conclusion:

9.3.16. I am of the view that the terms of the parent permission remain relevant in this regard and that the requirement to provide a scheme to minimise risk of off-site flooding is not necessary in respect to the development concerned. In conclusion on this point, I recommend that condition no. 10 is removed.

- Condition no. 11

9.3.17. In respect to condition no. 11 the applicant states that this condition imposes a new obligation relating to the entirety of the development. I am of the view that the proposed surface water attenuation features are an integral part of the Sustainable Urban Design System (SuDS) scheme design for the site as a whole and, as such, it is not unreasonable to confirm who will be responsible for their maintenance, repair and reinstatement, if necessary, due to failure.

Conclusion:

9.3.18. In this regard I recommend that Condition no. 11 is amended to facilitate the responsibility to transfer from the developer to the local authority in the event that the public spaces and integrated SuDS features are taken in charge.

9.4. ***Public amenity space/landscaping – Conditions no. 12 (a), 12 (b), 13 (c), 14(c), 14 (d) and 15***

- Condition 12 (a) and 12 (b)

9.4.1. The applicant is appealing this condition as it requires '*prior to commencement of development agreement*' and as stated earlier substantial areas of landscaped public open space have been completed already in accordance with the parent permission. As such, it is put forward by the applicant that given development has already commenced that prior to commencement requirements are not appropriate.

9.4.2. I would agree with the applicant that the wording of the condition is not appropriate as it doesn't specifically link to the 'development concerned' the subject of this application. I am of the view that an amended condition would be appropriate given there are modifications being proposed to two key public amenity spaces within the scheme and the supervision of a qualified landscape architect/consultant 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.

Conclusion:

9.4.3. In conclusion on this point, I recommend that condition 12 (a) and 12 (b) is amended to specifically address the development concerned.

- Condition no. 13

9.4.4. The applicant notes that condition 13 (a) and 13 (b) are relevant to the application and are accepted but raise concerns with condition 13 (c) as it relates to the overall development. The applicant states that substantial areas of landscaped public open space have been completed in accordance with the parent permission, including play areas.

9.4.5. I would agree with the applicant that condition no. 13 (c) is general in its scope and the proposed development has detailed specific equipment which the planning authority have included requested amendments within conditions 13 (a) and (b). I am of the view that an amended Condition no. 13 (c) would appropriately facilitate the agreement of the planning authority to the specify details in respect to play areas proposed within the current application.

Conclusion:

9.4.6. I recommend that condition no. 13 is amended to include enable agreement between the developer and the planning authority in respect to the details of the replacement play equipment.

- Conditions 14 (c) and 14 (d)

9.4.7. The applicant accepts that condition 14 (a) and 14 (b) are relevant to the proposed development however they contend that conditions 14 (c) and (d) are not necessary, not relevant and not reasonable to be applied to the development proposed. As part

of the application documentation, I note that detailed drawings (Drawing 101) were submitted including a play strategy, in addition to the landscape plan submitted with the application, as further information. Both areas of public amenity space that are proposed to be modified to accommodate the SuDS features are included in these plans and play strategy.

Conclusion:

I consider that an amended Condition no. 14 would ensure that the further amendments to paving detail and play areas within both areas, the subject of the development concerned, can be specified without further compliance submission necessary.

- Condition no. 15

9.4.8. The issue raised by the applicant in respect to this condition is that it required agreement prior to commencement of development. As the development has already commenced under the parent permission the applicant sets out that such a condition is not appropriate.

9.4.9. I note that taking in charge maps have been submitted as part of the application plans and particulars. The revised Taking in Charge (TIC) drawings reflect the proposed change to the red line boundary. The remaining section of link road is already included within the taking in charge drawings submitted with planning register reference 16/658 PL09.249038. I note that the TIC drawings include the public footpaths, public amenity spaces and include the lands to the west of the link road.

Conclusion:

9.4.10. I am of the view that to condition the resubmission of Taking in Charge drawings is not necessary and that this condition should be removed.

9.5. Security/financial contributions

- Condition no. 16

9.5.1. The applicant states that the development has been under construction since 2020 and bonds in respect to the overall development have been paid. No documentary

evidence of same has been provided. I note that in Appendix 3 of the applicant's appeal submission a copy of the bond calculation by Kildare County Council for the subject application dated 28 May 2025 is attached based on provision of 14 no. units, which is incorrect as the referenced 14 no. dwelling units were subject to application PL09.249038. The applicant states that this is incorrect as no additional residential units are proposed as part of this modification application.

9.5.2. Condition no. 12 of PL09.249038 required the lodgement of a security bond in respect to the Phase 1 development, subject of this application. As such, I am of the view that the terms of the permission remain relevant, and it is not necessary to therefore attach a duplicating bond condition.

Conclusion:

9.5.3. I recommend that Condition no. 16 is removed.

- Condition no. 17

9.5.4. Condition no. 17 is for a development contribution of €188,616.40 to be paid. The applicant has included in Appendix 4 a copy of the KCC Contributions Calculation Sheet dated 29 May 2025. The calculations are based on 14 no. houses as per section 8.1 of the Development Contribution Scheme (DCS) 2023-2029 (came into effect 1 January 2023).

9.5.5. I would agree with the applicant that there are no new residential units proposed within the amending development proposal. Furthermore, I note that the planner's report dated 28 May 2025 states in respect to development contributions that "*No further contributions required*", however, the report does continue to include a calculation of the difference in the floor area of residential units constructed as having a net increase in floor area of 309.4 sq.m from that of the 20 no. units permitted under ABP-312704-22.

9.5.6. I highlight to the Commission that a note is attached to the calculation spreadsheet setting out an outstanding development contribution of €185, 513.21 under PL Ref 16/658 (PL09.249038) and an outstanding balance of €385,435.96 on ABP-312704-22. It is expressly stated on the note that "*Any development contributions previously paid on PL. Ref. 16/658 can be deducted from amount due on PL Ref. 25/60025 to avoid any double charging or duplication*".

9.5.7. I am of the opinion that the planning authority have incorrectly applied a development contribution for residential development. There are, recorded outstanding development contributions in relation to the subject site. I note that Kildare County Council's DCS states that where a contribution is not paid in accordance with the terms of the scheme the planning authority shall recover any sums together with outstanding interest in accordance with the Local Loans Fund Interest Rate. As such, there is a defined route for recovery of development contributions, and I am of the view that it would not be appropriate to attempt to recover same by condition.

Conclusion:

9.5.8. I recommend that Condition no. 17 is removed.

10.0 Environmental Impact Assessment (EIA)

The parent permission SHD ABP-312704-22 was subject to Environmental Assessment Impact (EIA) and an Environmental Impact Assessment Report (EIAR) was submitted with that application.

The proposed development, as an amending application to the parent permission, has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report).

Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

11.0 Appropriate Assessment (AA) Screening

Screening Determination (See also Appendix 3)

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other

plans or projects would not be likely to give rise to significant effects on Pollardstown Fen SAC and River Barrow and River Nore SAC in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment (and submission of a NIS) is not required.

This determination is based on:

- Nature of works
- Location-distance from nearest European site and lack of connections.
- AA Screening undertaken by the Planning Authority.

12.0 Water Framework Directive

The subject site is located within 600 metres approximately of Cloncumber Stream_010 (IE_SE_14C170200) with a status of moderate and the relevant groundwater body is Curragh Gravels West (IE_SE_G_133) with an overall status of good.

The proposed development comprises the construction of a pond/wetland area and a detention basin. No water deterioration concerns were raised in the planning appeal.

I have assessed the proposed development of surface water attenuation features and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface/and or groundwater waterbodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Nature of the works
- Location from the nearest water bodies

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

13.0 Recommendation

Having regard to the nature of the conditions 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 to

- (a) REMOVE condition numbers 3, 5, 7, 9, 10, 15, 16 and 17 for the reasons and considerations set out below in Schedule (A), and to
- (b) AMEND condition numbers 8, 11, 12, 13 and 14 and the reason therefor as follows, for the reasons and considerations set out below in Schedule (B).

Schedule (A)

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 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 nos. 3, 16 and 17 is not relevant or reasonably related to the development concerned i.e. the modifications proposed to the previously permitted development. As per the provisions contained with section 34 (3C) of the Planning and Development Act 2000 (as amended) is outside the scope of the parameters of this application.

In respect to condition nos. 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 permitted public amenity spaces. Furthermore, it is considered that both conditions would internally conflict with Condition no. 6 that requires the implementation in full of the Sustainable Urban Drainage Systems (SuDS) Scheme Design drawings received on 16 January 2025 which include detailed surface water drainage calculations and drawings.

In respect to conditions nos. 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.

Schedule (B)

Amended Condition no. 8

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 to include the operation, implementation and maintenance & repair of the sustainable drainage systems. **Reason:** To ensure proper and sustainable servicing of the proposed development and to prevent pollution and flooding.

Reasons and Considerations:

The submitted Stormwater Management Plan includes for the operation and maintenance requirements, as such, there is no requirement for Condition no. 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 no. 8.

Amended Condition no. 11

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 local authority.

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

Reasons and considerations:

It is considered that the amended condition no. 11 would allow for the responsibility to transfer from the developer to the local authority in the event that the public spaces and integrated SuDS features are taken in charge.

Amended Condition no. 12

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 to the alterations hereby permitted to the two no. 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 should 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 interests of biodiversity, amenity and climate actions and in accordance with the relevant green infrastructure, landscape and environmental policies.

Reasons and Considerations:

Modifications are being proposed to two key public amenity spaces within the scheme and the supervision of a qualified landscape architect/consultant 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 no. 13

13. (a) The proposed play item, tower and net NR01004, on drawing 101 Kennedy Fitzpatrick Landscape Architecture (KFla) (dated 29.04.25) 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 and agree in writing with Kildare County Council 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.

Reasons and Considerations:

The amended condition no. 13 would appropriately facilitate the agreement of the choice of alternative play equipment between the developer and planning authority in respect to the play areas limited to the development concerned.

Amended Condition no. 14

14. The landscaping scheme shown on drawing no. 101 Kennedy Fitzpatrick Landscape Architecture (KFla) (dated 29.04.25) 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 submitted plans and particulars it is considered that an amended Condition no. 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 no. 14 to seek what is clearly provided for in the plans and particulars by reference to which the permission is being granted.

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, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Claire McVeigh
Planning Inspector
4 September 2025

Appendix 1: Form 1 - EIA Pre-Screening

Case Reference	322882-25
Proposed Development Summary	Large-scale Residential Development (LRD): amendments to previously granted development under ABP-312704-22.
Development Address	Curragh Farm, Ballymany, Newbridge, Kildare
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, no further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	N/A

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>N/A</p>
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>The parent permission SHD ABP-312704-22 was subject to Environmental Assessment Impact (EIA), by reason that the subject site area exceeded the 10 hectares threshold of Class 10 (b) (iv), and an Environmental Impact Assessment Report (EIAR) was submitted with that application.</p> <p>Class 10. Infrastructure Projects (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)</p> <p>Class 13. Changes, extensions, development and testing (a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would: -</p> <p>(i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and</p> <p>(ii) result in an increase in size greater than –</p> <p>- 25 per cent, or</p> <p>- an amount equal to 50 per cent of the appropriate threshold,</p> <p>whichever is the greater.</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	N/A
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** _____

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	322882-25
Proposed Development Summary	Large-scale Residential Development (LRD): amendments to previously granted development under ABP-312704-22.
Development Address	Curragh Farm, Ballymany, Newbridge, Kildare
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The parent permission SHD ABP-312704-22 was subject to Environmental Assessment Impact (EIA) and an Environmental Impact Assessment Report (EIAR) was submitted with that application.</p> <p>The proposed development is for amendments to the parent permission including the construction of two attenuation surface features (ponds/wetland and detention basin) within already permitted public open space, in conjunction with a change in the application red line boundary. The proposed changes would not result in the development increasing in size.</p> <p>The project due to its size and nature will not give rise to significant production of waste during both the construction and operation phases or give rise to significant risk of pollution and nuisance.</p> <p>The construction of the proposed development does not have potential to cause significant effects on the environment due to water pollution. The project characteristics pose no significant risks to human health. The proposed development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p>
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic,	<p>The subject site is located within the settlement boundary of Newbridge.</p> <p>The subject site is not located in or immediately adjacent to ecologically sensitive sites.</p> <p>It is considered that, having regard to the limited nature and scale of the development, there is no real likelihood of significant effect on other significant environmental sensitivities in the area.</p>

cultural or archaeological significance).	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	There is no real likelihood of significant cumulative considerations having regard to other existing and/or permitted projects in the adjoining area.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	
There is a real likelihood of significant effects on the environment.	

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3: AA Screening

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics Case: ACP-322882-25	
Brief description of project	<p>LRD application. Amendments to previously granted development under ABP-312704-22. A Natura Impact Statement was submitted with the parent permission ABP-312704-22.</p> <p>The proposed amendments include alterations to two no. permitted public open spaces to provide for pond/wetland area and a detention area. A boundary revision is included to omit part of the site (c. 1.2ha) from the original SHD boundary (no physical alterations proposed).</p> <p>Please refer to section 2.0 of my report for further detail.</p>
Brief description of development site characteristics and potential impact mechanisms	<p>Construction is ongoing at this subject site, under planning register reference 16/658 (PL09. 249038) and ABP-312704-22.</p> <p>The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA).</p> <p>The proposed development is located within the Barrow Catchment (ID14) and Liffey and Dublin Bay Catchment (ID09).</p>
Screening report	<p>Yes, prepared by Ross Swift Ecology Ltd.</p>
Natura Impact Statement	<p>No</p>
Relevant submissions	<p>None</p>

Step 2. Identification of relevant European sites using the Source-pathway-receptor model

There is a hydrological link identified to the River Barrow and River Nore SAC and Pollardstown Fen SAC with the subject site, as a result of it being located in the Barrow Catchment and Liffey and Dublin Bay Catchment area.

Table 4.1 of the submitted AA Screening report identifies six European Sites within potential Zone of Influence (ZoI). For the assessment the list of European Sites is refined to focus on sites considered to be within the zone of influence i.e. Pollardstown Fen SAC and River Barrow and River Nore SAC due to the potential hydrological connectivity to the site.

European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Pollardstown Fen SAC (Site Code 000396)	https://www.npws.ie/protected-sites/sac/000396 Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210] Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220] Alkaline fens [7230] Vertigo geyeri (Geyer's Whorl Snail) [1013] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]	500m NW	Hydrological connections	Y
River Barrow and River Nore SAC	https://www.npws.ie/protected-sites/sac/002162 Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Reefs [1170] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	10.7km SW	Hydrological connections	Y

	<p>Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachium</i> vegetation [3260]</p> <p>European dry heaths [4030]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Vertigo moulinsiana</i> (<i>Desmoulin's Whorl Snail</i>) [1016]</p> <p><i>Margaritifera margaritifera</i> (<i>Freshwater Pearl Mussel</i>) [1029]</p> <p><i>Austropotamobius pallipes</i> (<i>White-clawed Crayfish</i>) [1092]</p> <p><i>Petromyzon marinus</i> (<i>Sea Lamprey</i>) [1095]</p> <p><i>Lampetra planeri</i> (<i>Brook Lamprey</i>) [1096]</p> <p><i>Lampetra fluviatilis</i> (<i>River Lamprey</i>) [1099]</p> <p><i>Alosa fallax fallax</i> (<i>Twaite Shad</i>) [1103]</p> <p><i>Salmo salar</i> (<i>Salmon</i>) [1106]</p> <p><i>Lutra lutra</i> (<i>Otter</i>) [1355]</p> <p><i>Vandenboschia speciosa</i> (<i>Killarney Fern</i>) [6985]</p>			
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¹ Summary description / **cross reference to NPWS website** is acceptable at this stage in the report.

² Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species.

³if no connections: N

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

AA Screening matrix		
Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Pollardstown Fen SAC (Site Code: 000396) Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210] Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220] Alkaline fens [7230] <i>Vertigo geyeri</i> (Geyer's Whorl Snail) [1013] <i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014] <i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]	Direct: None Indirect: No likely significant disturbance to the habitat and species as the works will be over 500m from the nearest protected habitat. The proposed works would not require significant earthworks that would impact on air quality or from dust or from noise to cause a likely significant impact to protected species and habitats. No likely significant impact during the operational phase as the development is not directly located beside a protected habitat. No potential for a significant impact on water quality as there is no potential for groundwater contamination or significant surface water runoff or contamination from the proposed site that would enter any watercourse that is hydrologically connected to the SAC. There is no surface water pathway from the development site to the Pollardstown Fen. The proposed development will have a drainage system that is SuDS compliant and will not impact on Groundwater Quality.	Direct: Indirect: The contained nature of the site (serviced, defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to the SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SAC for the QIs listed. Conservation objectives would not be undermined.
River Barrow and River Nore SAC (Site Code: 002162) Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Reefs [1170]	Direct: None. Indirect: No likely significant disturbance to the habitat and species as the works will be over 500m from the nearest protected habitat.	Direct: None. Indirect: The contained nature of the site (serviced, defined site boundaries, no direct ecological connections or

<p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>European dry heaths [4030]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twait Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p>	<p>The proposed works would not require significant earthworks that would impact on air quality or from dust or from noise to cause a likely significant impact to protected species and habitats.</p> <p>No likely significant impact during the operational phase as the development is not directly located beside a protected habitat and does not directly involve accessing any surface waterbody and the drainage system would be SuDS compliant.</p>	<p>pathways) and distance from receiving features connected to the SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SAC for the QIs listed.</p> <p>Conservation objectives would not be undermined.</p>
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Lutra lutra (Otter) [1355] Vandenboschia speciosa (Killarney Fern) [6985]		
	Likelihood of significant effects from proposed development (alone): Y/N	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No (Refer also to Table 6.1 of submitted AA Screening report)	
	Possibility of significant effects (alone) in view of the conservation objectives of the site* No	
<p>* Where a restore objective applies it is necessary to consider whether the project might compromise the objective of restoration or make restoration more difficult.</p>		
Step 4 Conclude if the proposed development could result in likely significant effects on a European site.		
<p>I conclude that the proposed development (alone) would not result in likely significant effects on Pollardstown Fen SAC and River Barrow and River Nore SAC. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project.</p> <p>No mitigation measures are required to come to these conclusions.</p>		

Screening Determination

Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on Pollardstown Fen SAC and River Barrow and River Nore SAC in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- Nature of works
- Location-distance from nearest European site and lack of connections.
- AA Screening undertaken by the Planning Authority.