



An  
Bord  
Pleanála

## Board Order ABP-314153-22

### Planning and Development Acts 2000 to 2022

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 20/1403**

**Appeal** by Bernard Moran care of Brian Connolly Associates of The Studio, Woods Way, Clane, County Kildare against the decision made on the 24<sup>th</sup> day of June, 2022 by Kildare County Council to refuse permission.

**Proposed Development:** Construction of 94 number dwellings and a creche with entrance off Emerson Court access road. The dwellings consist of 80 number two-storey semi-detached houses, one number two-storey detached house, one number two-storey block containing two number maisonette units, two number two-storey blocks containing four number maisonette units each and one number two-storey terraced block containing three number houses. The development also includes connection to existing foul sewer, natural playscape play area, provision of part road as defined as PR8 of the Kildare County Development plan 2017-2023, provision of pedestrian permeability to The Downings as defined under PR16 of the Kildare County Development plan 2017-2023, provision of landscaped linear park as defined as PR30 of the Kildare County Development plan 2017-2023 and all associated ancillary site works, all at Curryhills, Prosperous, County Kildare, as revised by the further public notices received by the planning authority on the 3<sup>rd</sup> day of May, 2022 which provided for a revision to the link road as defined as PR8 of the Kildare County

Development Plan 2017-2023 to include cycle lanes and footpaths to both sides, redesign of internal road layouts, change in house type breakdown to now consist of 78 number two-storey semi-detached houses, six number two-storey detached houses, two number two-storey blocks containing four number maisonette units each and one number two-storey block containing two number maisonettes, pedestrian link to the east, redesign of foul sewer layout to include pumping station, redesign of surface water layout to include two number swales and all associated ancillary site works.

## **Decision**

**REFUSE permission for the above proposed development for the reasons and considerations set out below.**

## **Reasons and Considerations**

1. The majority of the appeal site is zoned C: 'New Residential', with the associated land use objective 'to provide for new residential development'. Given the nature and scale of the proposed development, the site's urban location and its proximity to public transport, the Board considered the development of the site to be acceptable and appropriate in principle. However, the proposed development seeks to provide a portion of the residential development on lands zoned for 'Open Space and Amenity' with the associated land use objective to 'protect and provide for open space, amenity and recreation provision' as identified in the Kildare County Development Plan 2023-2029. 'Dwelling' is listed as a use which is not permitted on lands zoned for 'Open Space and Amenity'. The proposed development would contravene materially the zoning objective pertaining to the north-eastern and south-western portions of the site and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The north-eastern and south-western portions of the appeal site are at risk of pluvial flooding from the Slate River to the north of the site and the Curryhills Stream to the west of the site. The proposed layout provides for houses and a portion of the internal access road, footpaths and car parking, which are an intrinsic element of the residential development, within Flood Zone A and B. The proposed development is a highly vulnerable use as defined in the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009). It is considered that proposed development does not satisfy the criteria of the justification test as the proposed development would be a risk to people and property and would be prejudicial to public health. The proposed development would be contrary to the Planning System and Flood Risk Management Guidelines and Objective IN O33 of the Kildare County Development Plan 2023-2029. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.



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**Mary Henchy**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board**

**Dated this 16<sup>th</sup> day of February 2024.**