

Planning and Development Act 2000, as amended

Planning Authority: Kildare County Council

Planning Register Reference Number: 24/61111

Appeal by Bernard Moran against the decision made on the 13th day of December, 2024 by Kildare County Council to refuse permission.

Proposed Development: Seven-year planning permission for the construction of 93 dwellings consisting of 12 number apartments and 12 number duplex apartments in two number three-storey blocks, four number apartments in one number two-storey block, 56 number semi-detached two-storey houses, and nine number detached houses. The development also consists of a new single storey creche unit, individual bin/bike stores for each apartment and duplex apartment units, natural playscape play area, new recessed vehicular entrance, connection to existing foul water sewer, new footpath connecting to existing footpath, provision of part transport objective as defined under ST P18 in the Kildare County Development Plan 2023-2029, provision of landscaped linear park as defined under map ref. V2-1.4b in the Kildare County Development Plan 2023-2029, two number permeable connections to The Downings housing scheme and a permeable connection to lands to the east as defined under TM 021 in the Kildare County Development Plan 2023-2029, and all associated ancillary site works, all at Curryhills, Prosperous, County Kildare.

Decision

GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the provisions of the Kildare County Development Plan 2023-2029, including the zoning objectives for the site, the nature of the proposed development and the pattern of development in the area, and relevant national and regional policy, including the relevant provisions of the National Planning Framework: First Revision, approved by Government in April 2025, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, would not be prejudicial to public health or the environment or ecology, would not have significant transport or traffic impacts, and would constitute an acceptable form of residential development on zoned and serviced lands within the settlement of Prosperous. While it is considered that the proposed development would materially contravene Objective CS 01 (Core Strategy) of the Kildare County Development Plan 2023-2029 in terms of the housing target for Prosperous, the Commission determined, with respect to National Policy Objective 11 of the National Planning Framework: First Revision' approved by Government in April 2025, and on the facts of the case, including the zoned and serviced nature of the lands, the proximity of the lands to the centre of the town, the relatively limited scale of the proposed development in absolute terms (93 homes), the part provision of a link road which is an objective of the development plan, and the ability of the wider receiving environment to absorb the proposed development, that permission would not set an undesirable precedent and would be warranted under the provisions of Section 37(2)(b)(iii)

of the Planning and Development Act 2000, as amended, (permission should be granted having regard to any relevant policy of the Government).

Furthermore, the proposed residential development would be acceptable in terms of design, layout, scale and mix and would promote the appropriate and efficient development of housing on serviced, accessible and sustainable lands which would comply with the relevant policies and provisions of the development plan insofar as they relate to the form of residential development. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Commission considered the documents submitted with the planning application and the response to the Section 131 notice, and all the other relevant submissions on file, and carried out an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites. The Commission agreed with the screening assessment and conclusion carried out in the Inspector's Reports, which assessed the full documentation on file, including the screening report received by the Commission in response to the Section 131 notice, and determined that the Ballynafagh Bog Special Area of Conservation (Site Code: 000391) is the only European Site in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Commission considered the Natura Impact Statement and all other relevant submissions, including expert submissions received, and carried out an Appropriate Assessment of the implications of the proposed development on the Ballynafagh Bog Special Area of Conservation (Site Code: 000391) in view of the site's Conservation Objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the Conservation Objectives of the site using the best available scientific knowledge in the field. In completing the assessment, the Commission considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the Conservation Objectives for the European Site.

In completing the Appropriate Assessment, the Commission accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's Conservation Objectives. In overall conclusion, the Commission was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site in view of the Conservation Objectives for the site. This conclusion is based on a complete assessment of all aspects of the proposed development and there is no reasonable scientific doubt as to the absence of adverse effects.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Coimisiún Pleanála on the 20th day of January, 2025 and the on the 26th day of June, 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented in full.

Reason: To protect the integrity of European Sites.

3. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order. A phasing plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: Having regard to the nature and extent of the proposed development, the Commission considered that a five-year period was appropriate and to ensure the timely provision of services for the benefit of the occupants of the proposed residential units.

4. The mitigation measures contained in Section 8 of the Ecological Impact Assessment Report, as received by the Commission on the 26th day of June, 2025 shall be implemented in full. In addition, a pre-construction badger survey shall be carried out prior to commencement of development.

Reason: To mitigate the loss of biodiversity on the site.

5. Details of the materials, colours and textures of all the external finishes to the proposed development (including bin stores and secure bicycle parking) shall be as submitted with the planning application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. The landscaping scheme, as received by the planning authority on the 24th day of October, 2024, shall be carried out no later than the first planting season after the first occupation of each phase of the development on site. The following shall be carried out:
 - (a) All trees and plant species shall be native species and no invasive species shall be permitted.
 - (b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity and to preserve local biodiversity.

7. Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall contain all technical specifications for lights and columns and lighting along pedestrian routes through open spaces and shall take account of trees and landscaping. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

8. Prior to commencement of development, the developer shall submit all drainage arrangements, including the attenuation and disposal of surface water, for the written agreement of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

9. Prior to commencement of development, the developer shall enter into a connection agreement with Uisce Éireann to provide for a service connection to the public water supply and wastewater collection network. All works shall comply with Uisce Éireann's Connection and Developer Services Standard Details and Code of Practice.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

10. The construction of the proposed development shall be managed in accordance with an updated Construction and Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate details for the following:

- (a) The location of the site and materials compound(s), including areas identified for the storage of construction refuse.
- (b) The location of areas for construction site offices and staff facilities.
- (c) Details of site security fencing and hoardings.
- (d) Details of on-site car parking facilities for site workers during the course of construction.
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (f) Measures to obviate the queuing of construction traffic on the adjoining road network.
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (j) The containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

- (k) The off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (l) The means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be made available for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety and environmental protection.

11. Prior to commencement of development, the developer, or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including a demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development.

12. A plan containing details for the management of waste within the proposed development, including the provision of facilities for the storage, separation and collection of the waste, and, in particular, recyclable materials and for the ongoing operation of these facilities for each residential unit shall be submitted to, and agreed in writing with, the planning authority not later than three months from the date of commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

13. The internal roads serving the proposed development, including turning bays, junctions, car parking and bicycle parking areas, footpaths, kerbs and finishes/materials/signs, shall comply with the detailed standards of the planning authority for such road works and shall comply in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS). Details of same shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

14. All communal parking areas serving the proposed residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with the requirements of the Kildare County Development Plan 2023-2029 in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

16. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the proposed development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

17. The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the planning authority, shall be maintained by a legally constituted management company. Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the proposed residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of the development in the interest of residential amenity.

18. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual amenity.

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

20. (a) Prior to the commencement of any house or duplex unit in the development, as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit) pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

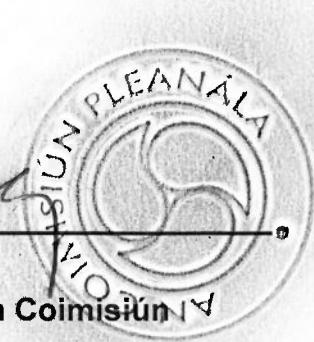
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

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



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

Dated this 28th day of January 2026.