



An
Bord
Pleanála

Inspector's Report

ABP-314153-22

Development	Construction of 94 dwellings and a creche. A Natura Impact Statement (NIS) was submitted with this application.
Location	Curryhills, Prosperous, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	20/1403
Applicant(s)	Bernard Moran
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Bernard Moran
Observer(s)	Matthew and Fidelma Paris and Others
Date of Site Inspection	14 th December 2023
Inspector	Elaine Power

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
4.0 Planning History.....	9
5.0 Policy Context.....	10
6.0 The Appeal	16
7.0 Assessment	21
8.0 Appropriate Assessment.....	41
9.0 Recommendation.....	50
10.0 Reasons and Considerations	50

Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2: Preliminary EIA Screening

1.0 Site Location and Description

- 1.1. The appeal site is located at the north west edge of the town of Prosperous, County Kildare. The surrounding area is suburban in nature. The site is bound to the south by residential estates, to the north and west by agricultural lands. To the north east the site is bound by a wastewater treatment facility and to the east by open plans, which are currently subject to a planning appeal (ABP. 316854-236, Reg. Ref. 22/11135) for 33 no. residential units.
- 1.2. The site has a stated area of 5.64 ha and is generally rectangular in shape. The site is gently undulating and open. It is currently divided into 2 no. fields by a hedgerow which runs in a north-south direction through the centre of the site. The sites eastern boundary and part of its northern and southern boundary are also defined by a mature hedgerow. There are also semi-mature trees along the sites southern boundary. To the north the site is bound by the Slate River.
- 1.3. Ballynafagh Bog SAC (000391) is located c. 170m west of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 94 no. dwellings and a creche. The residential units are all 2-storey in height and comprise 80 no. semi-detached houses, 1 no. detached house, 3 no. terrace houses and 2 no. blocks containing 4 no. maisonette units. Vehicular access to the scheme is proposed from Emerson Court to the south of the site.
- 2.2. The development includes the provision of part of a road, a landscaped linear park, a pedestrian link to The Downings, and all associated works to accommodate the scheme.
- 2.3. An NIS was submitted with the application.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for 2 no. reasons. These are outlined below:

1. Objective CO2 of the Kildare County Development Plan 2017-2023 requires that community facilities are provided in new communities on a phased basis in tandem with the provision of housing. Based on the information provided within the Social Infrastructural Assessment, submitted with this application in response to the Further Information request, the Planning Authority is not satisfied that the Applicant has sufficiently demonstrated there is adequate capacity within the existing Social Infrastructure provision in Prosperous to facilitate the proposed development. Notwithstanding the proposal to provide a creche as part of the proposed development, based on the information available to the Planning Authority, it is considered that there would remain a serious deficiency in both Childcare and Health Services provision in the town and, considered in tandem with the existing and proposed development, to permit the proposed development of 94 additional residential units would unduly exacerbate demands on the Social Infrastructure of Prosperous and contravene materially Objective CO 2. The proposed development is, therefore, considered to be contrary to the proper planning and sustainable development of the area.
2. Section 17.4.7 of the Kildare County Development Plan 2017-2023 sets out maximum percentage of 10% of public open space land can be occupied by proposed Sustainable Urban Drainage Solutions (SuDS). Having regard to the scale of proposed SuDS devices on the public open space land, the proposed development would contravene this section of the Kildare County Development Plan 2017-2023. The proposed development is, therefore, considered to be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planners report dated 12th January 2021 raised concerns regarding the requirement for an NIS to be submitted. In response to this request for further information a NIS was submitted on the 8th June 2021 and the proposed development was readvertised as significant further information.

The planners report dated 30th July 2021 raised some concerns regarding the proposed development and recommended that clarification of further information be sought regarding 17 no. items. These items are summarised below:

1. (a) Land registry details and (b) demonstrate that there is consent to access the site via Emerson Court.
2. Ensure the design and layout is in accordance with the provisions of the Urban Design Manual.
 - (a) Ensure that the proposed layout has fully consideration of the proposed layout of the site to the east, which is also subject to a planning application.
 - (b) Design out any incidental areas and incorporate them into larger areas of usable open space. Orientation of dwellings should maximise overlooking of areas of open space. A redesign of the area in the south-west portion of the site is required to ensure overlooking of open space. Revised drawings are required.
 - (c) Revised layout incorporating the mature hedgerow in the centre of the site.
 - (d) Cross section indicating the proposed scheme and adjacent existing dwellings.
 - (e) Revised elevational treatments to differentiate the unit types.
 - (f) Ground floor WC should be increased in size.
 - (g) Clarify the number of residential units proposed.
 - (h) Revised site layout plan of the proposed development, the previously approved development (reg. Ref. 20/1080) to the south-west of the site, and

an indicative road layout for the site to the east, outlining the potential for a proposed connection between the 3 no. sites.

3. (a) Submit a Social Infrastructure Assessment.
(b) if the assessment indicates a lack of childcare provision, the capacity of the proposed creche would need to be increased.
4. Submit an Ecological Impact Assessment.
5. Submit a revised housing mix statement.
6. The indicative housing allocation over the plan period 2020-2023 is 60 units, a detailed phasing plan is required.
7. (a) Submit an Arboricultural Assessment.
(b) Submit a Landscape Design Rational and Landscape Proposal.
Items (c) – (r) related to the detailed design of the scheme, to the standards of the Parks Department.
8. Illustrate the proposed public lighting within the scheme.
9. (a) Revised Part V proposals.
(b) address open space for all maisonette units.
10. (a) Submit a Flood Risk Assessment.
(b) review the proposed attenuation design having regard to the findings of the FRA.
(c) clarification on proposals to address the existing drain on the site.
11. Submit an Archaeological Impact Assessment. Items 11(a) – (d) outlines standard requirements for archaeological assessments and works.
12. The residential units and open space fronting onto the proposed distributor road would impede the road function and capacity and would endanger public health by reason of a traffic hazard and a potential obstruction to lines of sight. A revised layout is requested. Details of the revised design are set out in Item 12(a).
(b) Car parking shall be in accordance with development plan standards.

(c) and (j) requires details of EV charging points to be provided.

(d) details of bin storage arrangements for the maisonette units.

(e) bicycle storage arrangements to be in accordance with development plan standards.

(f) outlines details of visitor car parking spaces.

Items (g) – (i) relate to DMURS standards to be provided within the scheme.

(k) details of bicycle parking for the creche.

13. Revised Surface Water Layout.

14. Submit an Acoustic Design Statement

15. Submit a Road Safety Audit. Items (a) – (d) outline the detail to be provided within the RSA.

16. Submit a Traffic and Transport Impact Assessment

17. Submit a draft Construction Management Plan. Items (a) – (e) outline the information be provided within the plan.

The response to the clarification of further information was considered significant further information and the proposed development was readvertised.

Following receipt of clarification of further information, the Planners Report dated 23rd June 2022 considered that all items had not been adequately addressed and recommended that permission be refused for the 2 no. reasons outlined above.

3.2.2. **Other Technical Reports**

Water Services: Report dated 7th December 2020 recommended that further information be sought regarding flood risk. Report dated 26th June 2022 raised no objection subject to conditions.

Environmental Section: Report dated 17th December 2020 raised no objection subject to conditions. Report dated 24th May 2022 raised no objection.

Heritage Officer: Report dated 16th December 2020 recommended that further information be sought regarding the requirement for an AA Screening Report. Report

dated 22nd June 2022 noted the submission of an NIS and raised no objection to the proposed development.

Fire Officer: Report dated 11th January 2021 raised no objection subject to standard conditions.

Parks Section: Report dated 8th January 2021 recommended that further information be sought regarding an Arboricultural Assessment, a comprehensive Landscape Design Rational and Landscape Proposal and associated plans and particulars, redesign of houses to ensure overlooking of the areas of open space, redesign of the linear park, details of boundary treatments and play areas. The report dated 9th June 2022 requested that clarification of further information be sought regarding the landscape design proposals, boundary treatments and play areas.

Environmental Health Officer: Report dated 12th January 2021 raised no objection subject to conditions.

Roads, Transportation and Public Safety Department: Report dated 12th January 2021 recommended that further information be sought regarding the design of the scheme with regard to the provision of a link road as requested under Objective PR8, it is also recommended that the following be submitted: revised water layout plan; an Acoustic Design Statement; a Road Safety Audit; a Traffic and Transport Impact Assessment; and a draft Construction Management Plan. Report dated 8th June 2022 notes the further information submitted and raised no objection subject to conditions.

Housing: Report dated 4th January 2021 requested further information be sought regarding Part V requirements. Report dated 31st May 2022 raised no objection subject to conditions.

3.3. Prescribed Bodies

Uisce Eireann: Submission dated 7th December 2020 raised no objection to the proposed scheme subject to standard conditions.

An Taisce: Submission dated 4th January 2021 noted that an assessment is required of the adequacy of services for the proposed additional development in the area.

Development Applications Unit (DAU) of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media: The submission dated the 13th January 2021 states that

due to the size of the site it is recommended that pre-development archaeological testing be requested by way of further information.

Submission dated 3rd June 2022 notes the Ecological Impact Assessment submitted by way of further information. However, having regard to the site's proximity to Ballynafagh Bog SAC (000391) and the hydrological link between the appeal site and the SAC via the Slate River it is advised that an AA Screening be carried out.

3.4. **Third Party Observations**

The information on file indicates that there were 27 no. submissions received by the planning authority, in this regard 10 no. during the original application, an additional 10 no. during the further information stage and an additional 7 no. during the clarification of further information stage, from 16 no. third parties. The main relevant concerns raised relate to residential amenity, traffic considerations, flood risk and environmental impact.

4.0 **Planning History**

Appeal Site

None

Surrounding Sites

There are a number of planning applications in the surrounding area. The most relevant are outlined below.

Reg. Ref. 22/1135: Permission was granted in 2023 for the construction of 34 no. houses on a site immediately east of the appeal site. This decision is currently on appeal (ABP.316854-23).

ABP.304859-23, Reg. Ref. 18/1166: Permission was granted in 2020 for the construction of 49 no. dwellings at a site immediately south west of the appeal site. These dwellings are currently under construction.

Reg. Ref. 21/1428: Permission was refused in 2022 for the construction of 12 no. houses and the retention of a protected structure on a site c. 300m south of the appeal site. This decision is currently on appeal (ABP. 313893-22).

5.0 Policy Context

5.1. ***Kildare County Development Plan 2023 - 2029***

- 5.1.1. The appeal site is subject to 2 no. zoning objectives. The vast majority is zoned C: New Residential with the associated land use objective ‘to provide for new residential development’. The development plan states that this zoning provides for new residential development and associated ancillary services. Permission may also be granted for home based economic activity within this zone, subject to the preservation of residential amenity and traffic considerations. New residential areas should be developed in accordance with a comprehensive plan detailing the layout of services, roads, pedestrians and cycle routes and the landscaping of open space.
- 5.1.2. The area at the sites northern and western boundary is zoned F: Open Space and Amenity with the associated land use objective to ‘protect and provide for open space, amenity and recreation provision’. The development plan states that areas included in this zoning objective cover both private and public open space and are dispersed throughout the small towns. The aims of this land-use zoning objective are to protect recreation, open space and amenity areas, to maintain and improve amenity lands, to preserve private open space and to provide recreational facilities.
- 5.1.3. The Prosperous Zoning map indicates that a portion of the sites northern and western boundaries are located within a Flood Risk Area and the northern and western portion of the site are within an area at risk of flooding. There is also a Roads Objective through the northern portion of the site and an objective to provide a walking route within a linear park along the sites northern and western boundaries.
- 5.1.4. Table 2.1 of Volume 2 (Small Towns and Environs Plan) of the Development Plan sets out the development capacity of Small Towns. Prosperous has a target of 251 no. persons and 91 no. additional units by the end of 2028. The target residential density is 30-35 units per ha with 3 ha of land zoned for residential uses..

5.1.5. Section 2.5 of Volume 2 notes that Prosperous has an adequate water supply and waste water capacity to meet the current demands and the future planned growth over the life of this Plan. The following objectives for Prosperous, set out in Volume 2 are considered to be relevant:

- *ST P1* Encourage and promote development within the town centre, which is of a high standard of design, has an appropriate mix of uses, enhances the built environment and delivers a high-quality public realm.
- *ST P8* Maximise the potential of the River Slate for tourism and recreational purposes by improving public access to the river, including the provision of a linear park (in conjunction with the relevant statutory authorities). (See Map V2 – 1.4b).
- *ST P15* Maintain a minimum buffer of 10m from either side of the Slate River measured from the top of the riverbank to mitigate against pollution risks and maintain habitats.
- *ST P24* Proposed developments shall be subject to AA screening and where applicable Stage 2 AA to minimise the risk of likely significant effects on European Sites and their qualifying interest species which are hydrologically connected to the River Slate.
- *ST P18* Reserve land for a proposed link road to the northwest and northeast of the town between the Ballynafagh Road and the R403. Such a link road will be subject to an Appropriate Assessment under the Habitats Directive in consultation with the National Parks and Wildlife Service (NPWS) (See Map V2 – 1.4b).
- *ST P23* It is an objective of the Council to ensure that development proposals for lands identified by the dashed pink line on Map V2 – 1.4b shall be subject to a site-specific flood risk assessment appropriate to the type and scale of development being proposed.

5.1.6. Chapter 2 Core Strategy and Settlement Strategy, Chapter Housing, Chapter 6 Infrastructure and Environmental Services, Chapter 11 Built and Cultural Heritage, Chapter 14 Urban Design, Placemaking and Regeneration and Chapter 15

Development Management Standards of the development plan are all considered relevant. The following policies and objectives of the development plan are also considered relevant:

- SC O15: Require that community facilities are provided in new communities on a phased basis in tandem with the provision of new housing or other large-scale developments. In cases where there is a deficiency of a certain type of infrastructure as part of the development proposal, the frontloading of such infrastructure will be required as part of the first phase of development and must be fully operational prior to the occupation of any residential unit on the subject site. Such deficiencies should be identified in the Social Infrastructure Audit prepared to accompany the planning application. Where the Planning Authority is not satisfied with the information supplied as part of the Social Infrastructure Audit or where inadequate measures are proposed to address any identified shortfalls in social infrastructure as part of a proposed development scheme, a planning application for new housing developments or large-scale developments may not be favourably considered.
- HO P3: Implement, in conjunction with the Housing Section, the Housing Strategy and Housing Need Demand Assessment (HNDA) to meet the projected population, changing household size and housing needs, including social and affordable housing requirements for County Kildare over the lifetime of the County Development Plan
- HO P5: Promote residential densities appropriate to its location and surrounding context.
- HO O6: Ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable residential development is achieved in all new developments.
- HO P6: Promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development, backland development, re-use/adaptation of existing housing stock and the use of upper floors, subject to the provision of good quality accommodation.

- HO P7 Encourage the establishment of sustainable residential communities by ensuring a wide variety of housing typologies and tenures is provided throughout the county.
- UD P2 Develop towns and villages of all types and scale as environmental assets and ensure that their regeneration and renewal forms a critical component of efforts to achieve compact growth development and increased climate resilience within settlements across the county.
- IN O33 Manage flood risk in the county in accordance with the sequential approach and requirements of the Planning System and Flood Risk Management Guidelines for Planning Authorities, DECLG and OPW (2009) and circular PL02/2014 (August 2014), when preparing plans, programmes, and assessing development proposals. To require, for lands identified in the Strategic Flood Risk Assessment, a site-specific Flood Risk Assessment to an appropriate level of detail, addressing all potential sources of flood risk, demonstrating compliance with the Guidelines or any updated version of these guidelines, paying particular attention to avoidance of known flood risk, residual flood risks and any proposed site-specific flood management measures.

5.2. ***Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.***

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people’s quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located within the ‘Dublin Metropolitan Area’. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The following RPOs are of particular relevance:

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the ‘Sustainable Residential Development in Urban Areas’. ‘Sustainable

Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'.

RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

5.3. ***National Planning Framework***

The National Planning Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.4. ***Section 28 Ministerial Guidelines***

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the 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
- Quality Housing for Sustainable Communities: Design Guidelines, 2007
- Childcare Facilities Guidelines for Planning Authorities, 2001
- Circular Letter PL 3/2016
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

5.5. **Natural Heritage Designations**

The following 4 no. designated sites are within 15km of the appeal site.

- Ballynafagh Bog SAC (000391) c. 200m west of the appeal site.
- Ballynafagh Lake SAC (001387) c. 1.8km west of the appeal site.
- Mouds Bog SAC (002331) c. 8km south of the appeal site.
- Pollardstown Fen SAC (000396) c. 11.8km south of the appeal site.

5.6. **EIA Screening**

5.6.1. An Environmental Impact Assessment Screening Report was not submitted with the application.

5.6.2. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Construction of more than 500 dwelling units

- 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.
- Item 15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.6.3. The proposed development comprises the construction of 94 no. houses and a crèche with all associated infrastructure on a site with a stated area of 5.64 ha. The site is located in the urban area (other parts of a built-up area) and is, therefore, below the applicable thresholds. There are no excavation works proposed. Having regard to the relatively limited size and the urban location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would use the public water and drainage services of Uisce Eireann and Kildare County Council, upon which its effects would be marginal.

5.6.4. Given the information submitted by the applicant, having carried out a site visit on the 14th December 2023 and to the nature and limited scale of the proposed development, I am satisfied that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the planning authority's decision to refuse permission. The grounds of the appeal relate to the 2 no. reasons for refusal. The appeal also addresses concerns raised by third parties. An updated Housing Mix Statement, An NIS, the calculation of childcare provision, an updated Social

Infrastructural Assessment Report, details of available public transport and details of underground attenuation tanks have been submitted as appendices. The appeal is summarised below:

Reason for Refusal no. 1: Social Infrastructure

- Concerns regarding an under provision of childcare or GP services were not highlighted in the development plan or the draft plan. Section 1.6.8.10 of the (previous) development plan acknowledged that Prosperous was serviced by the Clane HSE Health Centre.
- The submitted Social Infrastructure Assessment references a report from the Graduate Medical Educational National Advisory Committee which recommends a standard of 1 no. GP per 4,000 persons. This figure is referenced in Section 4.6.1 of the (previous) Development Plan. Including the proposed development and previously approved applications the town of Prosperous would have a population of c. 3,035 persons. Statistically, 1 no. GP is sufficient for the population. However, it is acknowledged that the town services a wider hinterland and that there are many factors that determine which medical practice is used. Proximity is only one factor.
- The GP needs of Prosperous do not need to be met in the town. There are a wide range of GP practices within the greater community. Table 1 of the appeal notes that there are 42 no. practices with 122 no. GP's within 15km of the appeal site. There is also a regional hospital in Naas, a private hospital in Clane and Primary Care Centres in Maynooth, Kilcock, Newbridge, Naas and Clane, all within 15km of the appeal site.
- It is not practicable for Prosperous to be entirely self-sufficient in providing a full range of social infrastructure required to create a sustainable community. This is recognised in the Sustainable Residential Development in Urban Areas Guidelines.
- The Childcare Facilities Guidelines requires that 1 no. childcare facility, with 20 no. spaces, should be provided per 75 no. dwellings. The proposed development generates a requirement for a childcare facility with 25 no. spaces, or 24 no. spaces if the 4 no. 1-bed units are omitted from the calculation. The

scheme is in compliance with Circular PL3/2016 to increase the supply of childcare places.

- The applicant contacted an existing childcare provider in Prosperous, CK's Montessori, who confirmed that they have a maximum capacity of 19 no. places with 5 no. vacancies. It is noted that this is a viable business.
- The applicant is willing to accept a condition that the creche be operational prior to occupation of the first phase of the development.

Reason for Refusal 2: Drainage

- SuDs and stormwater detention can take a number of different forms.
- It is acknowledged that the use of filter drains, swales, basins and ponds in public open space would give rise to the requirement to limit the extent of public open space being used to facilitate storm water drainage. However, the proposed 'stormtech' drainage system comprises a number of underground tanks where storm water is stored and discharged to an adjacent storm water sewer at a greenfield rate.
- The proposed system does not require any manufactured sloping of public open spaces and is located below ground level.
- As the network is underground none of the open space is taken up by it.
- Section 17.4.7 of the (previous) development plan states that where public space is not fully usable due to the presence of infrastructure or occurrence of repeated flooding, this can be offset by provision at another location or a financial contribution.
- The applicant is providing both public open space and a linear walkway with an area of 10,521sqm. It is not unreasonable to include this linear walkway when calculating the area of open space taken up by SuDS, which equates to 9.11%. This is less than the 10% recommended in Section 17.4.7 of the development plan.

Transportation

- Condition 1 of the Roads, Transportation and Public Safety Department required that proposed houses 'C' and 'C1' and public open space should not front onto the link road and that revised drawings be submitted. This concern was not raised in the reasons for refusal or in the planners report.
- The revised design would be contrary to the proper planning and sustainable development of the area as they would turn their backs on the link road. this is contrary to the DMURS which recognises that the movement of traffic is a key issue.
- DMURS identifies four characteristics of good urban road / street design, which are connectivity, enclosure, active edge and pedestrian activity. An active frontage is achieved with frequent entrances and openings that ensure the street / road is overlooked and generates pedestrian activity.
- Permission was granted under Reg. Ref. 18/1166, ABP.304859-23 (to the south west of the appeal site) for houses overlooking the proposed link road.
- Under ABP.310892-21 for a residential scheme in Clane, the Board agreed that active frontages onto link roads is in accordance with DMURS.
- The Traffic Impact Statement indicates that the junctions effected by the proposed development would continue to operate within capacity.
- The recommendations of the Traffic Safety Audit will be implemented by the developer.

Flood Risk

- A Flood Risk Assessment (FRA) was submitted which notes that subject to raising the level of the road to 85.8 OD and the finished floor level of some proposed dwellings to 86.1 OD the proposed development is not expected to result in an adverse impact to the hydrological regime of the area or to increase flood risk elsewhere.

NIS

- The Heritage Officer agreed with the findings of the NIS, that it is noted considered that the proposed development would have a significant effect on Ballynafagh SAC.

Ecological Impacts

- The Ecological Impact Assessment (EclA) concluded that post development the scheme would provide an amenity area for people and would benefit local wildlife. The Heritage Officer recommended that all the mitigation measures in the EclA be attached to any grant of permission.

Conclusion

- The proposed development complies with the sites zoning objective.
- The scheme would deliver a significant portion (c. 40%) of the proposed link road.
- The scheme would deliver a large section of the Social Infrastructure Objectives PR 29 and PR30.
- The various technical department of the planning authority were favourable disposed to the application, subject to conditions.

6.2. Planning Authority Response

Response dated the 17th July 2022 states that the planning authority have no further comments.

6.3. Observations

An Observation was received from Michael and Fidelma Paris and others. The relevant concerns raised are summarised below:

- The OPR Recommendation 3 of the draft Kildare County Development Plan requires a review of lands zoned C: New Residential in Prosperous, Kill, Derrinturn and Blessington and to reduce the extent of zoning in these areas to meet the housing supply needs. The OPR requires that consideration be given

to the sequential approach, compact growth, servicing of zoned lands and the Flood Risk Management Guidelines.

- A section of the proposed development is located within the delineated Flood Risk Assessment boundaries as shown on the Flood Zone Map. It is proposed that part of the site has been rezoned from New Residential to Open Space in the draft development plan. This is to account for the revised flood risk area.
- The site is located beside the Prosperous Sewerage Pumping Station and Ballynafagh Bog SAC. The potential increased risk of flood risk to these sites from the proposed development need to be addressed.
- The Social Infrastructure Audit was incomplete and does not take account of all extant permissions in Prosperous.
- Given the substantial gaps in information required to properly assess the application it is recommended that permission be refused.

6.4. Further Responses

None

7.0 Assessment

7.1. Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Design Approach
- Social Infrastructure - Reason No. 1 for refusal
- Drainage – Reason no. 2 for refusal
- Flood Risk

7.2. ***Principle of Development***

7.2.1. The planning authority assessed the scheme against the provisions of the Kildare County Development Plan 2017 - 2023, which was the relevant statutory plan in place when the application was decided. The current development plan came into effect on the 28th January 2023 and my assessment is based on the policies and objectives of the current statutory plan, which is the Kildare County Development Plan 2023-2029.

Zoning Objective

7.2.2. In accordance with the provisions of the current development plan the appeal site is subject to 2 no. zoning objectives. The majority of the site is zoned C: New Residential with the associated land use objective '*to provide for new residential development*'. The area at the sites northern and western boundaries are zoned F: Open Space and Amenity with the associated land use objective to '*protect and provide for open space, amenity and recreation provision*'.

7.2.3. Under the current development plan c. 1ha of the appeal site was re-zoned from C: New Residential to F: Open Space and Amenity. The change in the zoning objective reflects the findings of the Strategic Flood Risk Assessment (SFREA) carried out as part of the development plan, which indicates that the north eastern and south western portions of the site are located in areas at risk of flooding. Section 7 of the SFRA (Prosperous) notes that the sequential approach was followed, and water compatible zonings were assigned to areas that overlap with Flood Zones A and B.

7.2.4. The change to the zoning objective proposed in the draft development plan was noted in the third-party observation. It is acknowledged that the concerns raised by the third party were not circulated to the applicant. However, I am satisfied that there is sufficient information available on file to carry out a full assessment of the proposed development. In addition, as the issue of zoning was raised in the observation I do not consider the sites zoning objective to be a new issue.

7.2.5. It would appear from the revised zoning map that 18 no. proposed houses, in this regard house numbers 27, 28, 29, 30, 31, 32, 35, 36, 37, 38, 39 and 40 in the north eastern portion of the site and house numbers 80, 81, 82, 83, 84 and 85 in the south western portion of the site, are located on lands zoned for Open Space and Amenity

zoning objective. In the interest of clarity my assessment relates to the scheme submitted to the planning authority by way of clarification of further information on the 22nd April 2022.

7.2.6. Table 2.4 - Small Towns – Land Use Zoning Matrix in Volume 2 of the development plan indicates that a ‘dwelling’ is not permitted on lands zoned for Open Space and Amenity. Table 2.3 states that land uses which are indicated as ‘Not Permitted’ in the Land Use Zoning Matrix will not be permitted. Therefore, the provision of 18 no. houses on lands zoned for Open Space and Amenity would be a material contravention of the zoning objective for the site.

7.2.7. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that: -

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.2.8. Taking each of these in turn I conclude:

- (i) While I note the development of the site would support compact growth, the proposed development of 94 no. houses would not in my view be considered of national or strategic importance.
- (ii) There are no conflicting objectives and all objectives are quite clear in the development plan relating to lands zoned for Open Space and Amenity.

(iii) Appendix 8 of the development plan provides a statement of compliance with Section 28 guidelines. In my view there are no specific requirements set out in policy directives, relevant policies of the government nor regional planning guidelines which would support such a proposal.

(iv) The pattern of development and permissions granted in Prosperous since the making of the development plan in January 2023 do not suggest a predisposition to materially contravening the land use zoning objective.

7.2.9. Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that the Board are not open to a grant of permission for housing on lands zoned for Open Space and Amenity as it may be considered to materially contravene the zoning objective of the Kildare County Development Plan 2023-2029.

7.2.10. It is acknowledged that c. 76 no. proposed houses are located on lands zoned for residential uses. However, it is my view that omitting the 18 no. houses located on lands zoned for Open Space and Amenity would result in a substandard design and layout of the scheme, with incomplete blocks and incidental areas of open space provided in the north-eastern and south western portions of the site. Therefore, it is my recommended that permission be refused as a fundamental redesign of the scheme is required to ensure a high-quality design and layout is achieved with all residential units provided on lands zoned for residential uses and appropriately designed associated areas of open space, footpaths, roads and public lighting and all associated infrastructure.

7.2.11. The proposed layout also includes a public road through the area of the site zoned for F: Open Space and Amenity. Roads / Infrastructure is not listed on the zoning matrix. However, as there is an objective to provide a road through the site, the location of the proposed access road through lands zoned for Open Space and Amenity is considered acceptable in this instance.

Core Strategy

7.2.12. Table 2.8 Core Strategy Table of the development plan and Table 2.1 of Volume 2 (Small Towns and Environs Plan) sets out a target of an additional 251 no. persons

and 91 no. units for Prosperous by the end of 2028, with 3 ha of land zoned for residential uses with a density range of 30-35 units per ha. This target would result in an estimated total population of 2,719 persons.

7.2.13. The proposed scheme comprises 94 no. residential units and would, therefore, exceed the target of 91 no. additional units by the end of 2028. In addition, there is a current appeal (ABP.316854-23) on the adjacent site, also zoned C: New Residential, for the construction of 34 no. houses and another appeal (ABP. 313893-22) for the construction of 12 no. houses on a site on a site zoned A: Town Centre, c. 300m south of the appeal site. Therefore, there is potential for c. 140 no. additional residential units in Prosperous by the end 2024. It is acknowledged that the proposed development alone and in combination with other proposed development has the potential to exceed the population and unit targets set out in the Core Strategy.

7.2.14. Both Table 2.8 of the development plan and Table 2.1 of Volume 2 state that 3 ha of land in Prosperous has been zoned residential with a target density of 30-35 units per ha and that this quantum of zoned land developed would result in the targets outlined in the plan. However, the Prosperous Zoning Map (V2-1.4a) indicates that c. 12.9ha of land in Prosperous are zoned C: New Residential. Therefore, the quantum of land zoned for New Residential has the potential to provide a minimum of 387 no. residential units (at a density of 30 units per ha). It should be noted that is figure excludes other land use zonings which also allow for residential development, including A: Town Centre, B: Existing Residential and SS: Serviced Sites.

7.2.15. The third-party observation noted the quantum of land zoned for residential development in the draft development plan and makes reference to the OPR's Recommendation in response to the draft Kildare County Development Plan. The OPR recommended that lands zoned C: New Residential in *inter alia* Prosperous be reviewed and to reduce the extent of zoning to meet the housing supply needs as set out in the draft plan. The information available on the OPR website (www.opr.ie) indicates that concerns were raised in Prosperous regarding the zoning of 4.7ha of land to the north of Prosperous, which includes the appeal site. The concerns raised by the third party are noted, however, the development plan was adopted in January 2023 without any amendment to the quantum of land zoned for New Residential.

7.2.16. The target figure of 91 no. additional residential units, set out in the Core Strategy is acknowledged, however, the land use zoning objectives allow for an increased quantum of residential units significantly above that outline in the Core Strategy. In my opinion the quantum of development is not a material contravention of the Core Strategy, however, with regard to the precautionary approach I am satisfied that the proposed quantum of development would be justified under Section 32(2)(b)(ii) as there are conflicting objectives in the core strategy and the zoning objective for the site.

7.3. ***Design Approach***

7.3.1. As outlined above, I have serious concerns regarding the provision of c. 18 no. residential units on lands zoned for Open Space and Amenity and consider that the material contravention is not justified with regard to Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) and that the scheme should be refused on this basis to allow for the comprehensive redesign of the development site. However, as the Board may be minded to grant these dwellings my assessment of the design approach for the scheme relates to all 94 no. dwellings as proposed on drawings submitted to the planning authority by way of clarification of further information on the 22nd April 2022.

Density

7.3.2. The cover letter submitted with the application stated that the site has a net developable area of 4.53 ha. Therefore, the proposed scheme of 94 no. residential units has a density of c. 21 units per ha. If the area of public open space (c. 1ha) was excluded from the calculation, the scheme density would increase to c. 26.6 units per ha. Table 2.8 Core Strategy and Table 2.1 of Volume 2 (Small Towns and Environs Plan) of the Development Plan sets out a target residential density is 30-35 units per ha in Prosperous. Therefore, the proposed density is below the recommended target set out in the development plan. It is noted that this target does not relate to a policy of the development plan, and therefore in my view is not a material contravention of the development plan.

7.3.3. Table 3.6 of the Sustainable Residential Development and Compact Settlements Guidelines sets out density ranges of 25 – 40 units per ha for greenfield lands at the

edge of small to medium sized towns, on lands that are zoned for residential or mixed uses development. Therefore, the proposed density is within the recommended targets set out in the Guidelines.

- 7.3.4. In addition, Policy HO P5 of the development plan aims to promote residential densities appropriate to the sites location and surrounding context. The site is located on zoned and adequately serviced lands in the urban area, in close proximity to a range of services and amenities in Prosperous and the surrounding environs. It is also served by the 120(x/a/e/f) bus route which provides connectivity between Edenderry and Dublin city centre and UCD, via Newbridge. The timetable for the 120 is included as Appendix G of the appeal. This indicates a high frequency service in the AM and PM peak periods. Given the sites location and proximity to public transport it is my view that the appeal site is capable of accommodating a higher density, in the range of 30-35 units per ha, as recommended in the development plan. However, having regard to the established pattern of development in the wider environs of the appeal site I am satisfied that the proposed density is acceptable and in accordance with the provisions of Policy HO P5 and Table 3.6 of the Sustainable Residential Development and Compact Settlements Guidelines.

Design and Layout

- 7.3.5. The appeal site currently forms 2 no. vacant greenfields which are separated in a north south direction by a hedgerow. The proposed scheme comprises the construction of 94 no. residential units and a creche in a traditional grid pattern. The layout of the scheme provides public open space within the centre of the scheme, which allows for the partial retention of the existing hedgerow. This design feature is welcomed.. Vehicular access is proposed from Emerson Court (residential estate road) at the south east corner of the site. The creche is located adjacent to the vehicular entrance.
- 7.3.6. The scheme also includes a linear park along the sites northern boundary with the Slate River. This is in accordance with Objective ST P8 (of Volume 2 of the Development Plan) to maximise the potential of the River Slate for tourism and recreational purposes by improving public access to the river, including the provision of a linear park as outlined on Map V2 – 1.4b. The linear park is designed to create defined zones for various activities including play areas, kick about areas, exercise stations and passive recreations as well as enhancing the biodiversity of the area with

wild grass meadows. The existing hedgerow along the river would also be retained and further enhanced with additional tree planting. Public open space is also provided along part of the sites southern boundary and part of its western boundary, which would connect to public open space to the south of the appeal site, within The Downings. It is acknowledged that the pedestrian links to The Downings would require third party approval, however, additional permeability and connectivity within Prosperous is welcomed.

- 7.3.7. Objective ST P18 (of Volume 2 of the Development Plan) requires the reservation of land for a proposed link road to the northwest and northeast of the town between the Ballynafagh Road and the R403. The proposed internal access road, as indicated on the drawings submitted by way of further information, provides a link through the appeal site from the north east corner to the sites western boundary. I am satisfied that the proposed internal road network is in accordance with the provisions of Objective ST P18 as outlined on Map V2 – 1.4b.
- 7.3.8. The scheme is divided into 2 no. character areas. The eastern portion of the site is character zone 1 and the western portion of the site is character zone 2. The character zones are separated by the central area of public open space. All typologies are contemporary in design with similar elevational treatments. The predominate external material is render with a cladding feature on the front elevation. The units in character zone 1 would be clad in a blue limestone finish and the units in character zone 2 would have a beige limestone finish. In my view, given the proposed number of units the differing colour of the external materials is welcomed as the variety would improve the visual interest of the scheme and aid with placemaking and legibility.
- 7.3.9. The unit mix was amended by way of further information. Due concerns raised in the planners report an updated Housing Mix Statement is attached as Appendix A of the appeal. The proposed scheme comprises 94 no. residential units, 84 no houses and 10 no. maisonettes. All units are 2-storeys in height. The unit mix comprises 23 no. (24.5%) 4-beds, 45 no. (47.8%) 3-beds, 22 no. (23.4%) 2-beds and 4 no. (4.3%) 1-bed units. There are 16 no. different unit types, ranging in size from a 4-bed (151.5sqm) detached house to a 1-bed (49.7sqm) maisonette. It is noted that the 2-storey corner units (type C1, C3, J1 and K1) have been designed as dual aspect corner units, which allows for passive surveillance of streets and public spaces. This design feature is welcomed.

7.3.10. The Housing Mix Statement submitted with the appeal indicates that all houses reach and exceed the minimum requirements set out in the Quality Housing for Sustainable Communities Guidelines and the maisonettes reach and exceed the standards set out in the Apartment Guidelines. It is noted that all units are dual or triple aspect.

7.3.11. I have no objection in principle to the proposed design and layout of the scheme and consider it reflective of the established pattern of development to the south of the site. It is noted that no concerns were raised by the planning authority regarding the design and layout of the scheme.

Residential Amenity

7.3.12. The appeal site is bound to the south by Emerson Court and The Downings residential estates. It is bound to the east by the Prosperous Sewerage Pumping Station and a greenfield site. The adjacent field is currently subject to an appeal (ABP. 316854-236, Reg. Ref. 22/11135) for 33 no. residential units. To the north and west the site is generally bound by agricultural lands. No concerns were raised in the observation or by the planning authority regarding a negative impact on existing residential amenity.

7.3.13. The proposed scheme is laid out in a grid pattern. The further information drawings on file are not to scale, however, it would appear that there is a separation distance of c. 20m between the rear elevations of the existing and proposed dwellings. SPPR 1- Separation Distances of the Sustainable and Compact Settlement Guidelines states requires a minimum separation distance of 16m between opposing windows serving habitable rooms above ground floor level. It further states that a separation distance below 16m may be considered acceptable in certain circumstances. Having regard to the limited (2-storey) height of the proposed residential units, the separation distances between existing and proposed dwellings and the orientation of the scheme I am satisfied that it would not result in any undue overlooking or have an overbearing impact on any existing dwellings.

7.3.14. A daylight, sunlight and overshadowing assessment was not submitted with the application. Section 5.3.7 of the Sustainable and Compact Settlements Guidelines notes that the provision of acceptable levels of daylight in new residential developments is an important planning consideration. However, planning authorities

do not need to undertake a detailed technical assessment in relation to daylight performance in all cases and that in the case of low-rise housing with good separation distances, it should be clear from the assessment of architectural drawings that undue impact would not arise. Given the characteristics of the proposed development I am satisfied that it would not result in overshadowing of any existing or proposed residential dwellings and a technical assessment of daylight, sunlight and overshadowing performance is not necessary in this instance.

Open Space

7.3.15. Section 15.6.6 of the development plan states that on greenfield sites a minimum of 15% of the total site area shall be provided as open space. This is generally in accordance with the provisions of Policy and Objective 5.1- Public Open Space of the Sustainable and Compact Settlements Guidelines which sets out a range of 10% - 15% of the net site area as public open space. The proposed scheme incorporates 10,332sqm of public open space, which equates to c. 22.6% of the total site area. The main areas of public open space are provided at the site's northern boundary, in the linear park and in the centre of the scheme. It is noted that there are smaller linear areas of open space at the sites southern, eastern and western boundary. All areas of open space are overlooked by the proposed dwellings, which is a welcome design response as it allows for passive surveillance. A breakdown of the quantum of open space in each area has not been provided, however, I have no objection to the quantum of open space proposed and note that it exceeds the standard set out in the development plan and the Sustainable and Compact Settlements Guidelines. The Landscape Masterplan indicates that the areas of open space are designed for both passive and active recreational uses. Therefore, I have no objection to the quality of the public open space.

Conclusion

7.3.16. It is acknowledged that this is a zoned and serviced site in the urban area and in my view the proposed scheme represents a reasonable response to its context and would support the consolidation of the urban area. However, as outlined above the provision of c.18 no. houses on lands zoned for Open Space and Amenity would materially contravene the zoning objective which I am not satisfied is justified in this instance.

Consideration was given to a split decision, omitting the residential units located on lands zoned for 'Open Space and Amenity' and granting permission for the residential units located on lands zoned 'New Residential'. However, in my opinion the level of intervention and redesign required is such that a more optimal design solution would be realised if the development in its entirety was refused.

7.4. Social Infrastructure – Reason no. 1 for Refusal

- 7.4.1. The planning authority's first reason for refusal considered that there would be a serious deficiency in both Childcare and Health Services provision in the town and to permit the proposed development of 94 no. additional residential units, in tandem with the existing and proposed development, would unduly exacerbate demands on the Social Infrastructure of Prosperous and contravene materially Objective CO 2. Objective CO2 of the Kildare County Development Plan 2017-2023 which required that community facilities are provided in new communities on a phased basis in tandem with the provision of housing. As noted above, the planning authority assessed the scheme against the provisions of the previous development plan and my assessment is based on the policies and objectives of the current statutory plan, which is the Kildare County Development Plan 2023-2029. In my view the relevant Objective in the current plan is Objective SC O15, which has a similar wording to Objective CO 2 of the previous plan.
- 7.4.2. The appeal notes that Prosperous had a population of 2,333 persons in 2016 and that permission has been granted for c. 164 no. dwellings since 2016. Using an average household population of 2.72 persons, upon completion of these dwellings the applicant considers that Prosperous has a population of c. 3,035 persons, which is an increase of c. 256 persons. The estimated population of Prosperous has been used in the appeal to estimate the level of Childcare and GP services required to serve the population. The 2022 census (www.CSO.ie) states that Prosperous (electoral division), which includes the towns rural hinterland, had a population of 3,091, which is an increase of 129 no. persons (4%) since 2016.
- 7.4.3. The proposed scheme provides for c. 464 no. bedspaces, it is my opinion that this is an a more appropriate indication of the potential population generated by the scheme

rather than the average national household size of 2.7 persons per residential unit, which would equate to a potential population of 254 persons.

Childcare Provision

- 7.4.4. Section 3.3.1 of the Childcare Facilities Guidelines states that in relation to new housing areas, a standard of one childcare facility providing for a minimum 20 no. childcare places per approximately 75 no. dwellings may be appropriate. This is a guideline standard and will depend on the particular circumstances of each individual site. It is proposed to provide a childcare facility with 25 no. spaces. The applicant based the size of the facility on a requirement of 0.26 of a childcare space per residential unit with 2 or more bedrooms (20 spaces / 75 no. residential units). This is considered a reasonable approach. I also agree with the applicant that it is acceptable to omit the 4no. 1-bed units from the calculation, as they are unlikely to generate a requirement for a childcare place. I am satisfied that the proposed creche would be adequate to serve the needs of the proposed development.
- 7.4.5. The 2022 census states that there are 170 no. children aged between 0-4 living in Prosperous (electoral division), which includes the towns rural hinterland. The census also states that nationally 56% of children aged 0-4 are cared for in a creche / Montessori / playgroup / afterschool. Using these figures, there is potential for c. 95 no. children (56% of 170) in Prosperous to require a childcare place.
- 7.4.6. The applicant carried out a childcare survey in 2022 in Prosperous, which is submitted as part of Appendix E of the appeal. The survey found that there are 4 no. childcare facilities with c. 203 no. spaces with spare capacity for 7 no. children.
- 7.4.7. Having regard to the information submitted I am satisfied that there are sufficient childcare facilities within Prosperous and that the demand generated by the proposed development would be adequately catered for in the proposed childcare facility within the scheme. Therefore, I disagree with the planning authority that notwithstanding the proposed creche within the appeal site there would remain a serious deficiency in childcare. If permission is being contemplated it is my recommendation that a condition be attached that the childcare facility be operational prior to occupation the first phase of the development.

Health Care

- 7.4.8. Section 10.14 Health Services of the development plan notes that access to health services is very challenging in Kildare with variations in terms of the level of GP services across the county. The plan further notes that the provision of health care services in County Kildare is ultimately the responsibility of the Health Service Executive (HSE) along with other private and voluntary agencies and that the primary role of the Council in healthcare provision is to ensure that there are adequate lands available in development plans and local area plans to provide for new facilities and the expansion of existing facilities.
- 7.4.9. The appeal site is zoned C: New Residential with Medical Consultant / Health Centres Open for Consideration under this zoning objective. Medical Consultant / Health Centres are Permissible on lands zoned A: Town Centre, E: Community and Education and Q: Enterprise and Employment, where these uses are considered most appropriate. It is also noted that there is no specific objectives on the appeal site to provide a community use.
- 7.4.10. The information submitted indicates that there is 1 no. existing GP in Prosperous. The applicant references a report from the Graduate Medical Education National Advisory Committee which recommends a standard of 1 no. GP per 4,000 persons. As noted in the appeal, this figure is also referenced in the Athy Local Area Plan 2021 – 2027 (Section 4.6.1) and in my view is considered reasonable.
- 7.4.11. As noted above the 2022 census states that Prosperous (electoral division) had a population of 3,091. Based on the number of bedrooms proposed it is my view the proposed scheme has the potential to accommodate c. 464 no. additional persons. Therefore, potentially increasing the population of Prosperous to c. 3,555. Statistically, 1 no. GP is sufficient to serve the town, including the potential population increase generated by the proposed development. However, it is acknowledged that proximity to a GP is not the only factor and the existing facility may serve a wider hinterland and be at capacity.
- 7.4.12. Prosperous is identified in the settlement hierarchy as a 'town' with local services and employment functions in close proximity to higher order urban areas. Section 10.14 of the development plan also states that proposals relating to healthcare facilities should

reflect the County's Settlement Hierarchy and be accessible and integrated into communities. I agree with the applicant that due to the towns designation with the settlement hierarchy there is no requirement for all social needs to be met within the town.

7.4.13. The appeal site is located c. 4km west of Clane, which as noted in the appeal has 7 no. GP practices with c. 21 no. GP's, 1 no. Primary Care Centre and 1 no. private hospital. There are a total of 42 no. GP practices with 122 no. GP's within 15km of the appeal site. Section 10.14 of the current development plan notes that a Primary Care Centre would support a population of 7,000 – 10,000 persons. There are 5 no. Primary Care Centres within 15km of the appeal site in Maynooth, Kilcock, Newbridge, Naas and Clane. There is also a regional hospital in Naas. Having regard to the information submitted I am satisfied that there is sufficient health care available within the wider area to serve the proposed development and I do not agree with the planning authority that there is a serious deficiency in health services in Prosperous.

Conclusion

7.4.14. Overall, I am satisfied that the proposed scheme would not unduly exacerbate demands on the Social Infrastructure of Prosperous and that the level of healthcare and childcare facilities are appropriate to Prosperous designation as a 'town' within the County's Settlement Hierarchy. I am also satisfied that the proposed development does not contravene materially Objective SC O15 of the development plan.

7.5. *Drainage – Reason No. 2 for Refusal*

7.5.1. The planning authority's second reason for refusal considered that the scale of the proposed SuDS devices on the public open space land would contravene section 17.4.7 of the Kildare County Development Plan 2017-2023, which allows for a maximum percentage of 10% of public open space land to be occupied by Sustainable Urban Drainage Solutions (SuDS).

7.5.2. As noted above the current statutory plan is the Kildare County Development Plan 2023-2029. Objective IN O26 of the current development plan states that SuDS do not form part of the public open space provision, except where it contributes in a significant and positive way to the design and quality of open space. In instances where the

Council determines that SuDS make a significant and positive contribution to open space, a maximum of 10% of open space provision shall be taken up by SuDS.

- 7.5.3. In response to the reason for refusal the applicant notes that the proposed 'stormtech' drainage system comprises a number of underground tanks where stormwater is stored and discharged to an adjacent storm water sewer at a greenfield rate. The proposed SuDs would not take up any of the public open space area as it would be located below ground. The report of the Water Services dated 26th June 2022 notes the surface water proposals and considered to be satisfactory. The report also notes that the preferred option would be a single attenuation system and a larger swale adjacent to the river area, however, its acknowledged that this may negatively impact on the quantum of public open space and raises safety concerns for children.
- 7.5.4. Objective IN O24 of the development plan states that underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution. It would appear from the report of the Water Services Department of Kildare County Council that there is no objection in principle to the provision of underground storage tanks. However, having regard to Objective IN O24 it is unclear if the open space area would be taken in charge if attenuation tanks are located underneath the public open space. However, it is my opinion that this concern could be addressed by way of condition.
- 7.5.5. In conclusion, I have no objection to the SuDs proposals and consider that, as they are located underground, they are compliant with Objective IN O26. If permission is being contemplated it is recommended that a condition be attached that final details of all SuDs proposals and areas to be taken in charge be agreed with the Planning Authority, prior to commencement of development.

7.6. ***Flood Risk***

- 7.6.1. The appeal site is bound to the north by the Slate River and to the west by an unnamed stream, referred to as the Curryhills Stream by the applicant. A Site-Specific Flood Risk Assessment (FRA) was submitted by way of clarification of further information. The FRA notes the Strategic Flood Risk Assessment (SFRA) carried out as part of the draft Kildare County Development Plan 2023-2029, indicates that the north eastern

corner and the south western corner of the site are generally located in Flood Zone A with a smaller section in Flood Zone B.

7.6.2. The submission from the observer notes that to account for the revised flood risk area, part of the site has been rezoned from New Residential to Open Space in the draft development plan. The observer also notes that a section of the proposed development is located within the delineated Flood Risk Assessment boundaries as shown on the Flood Zone Map and raised concerns that the proposed development could increase the risk of flooding to the adjacent Prosperous Sewerage Pumping Station and to Ballynafagh Bog SAC.

7.6.3. As noted above, the north eastern corner and the south western corner of the site were re-zoning from C: New Residential to F: Open Space and Amenity in the current development plan. The zoning map (V2 – 1.4a) also indicates that a significant portion of the site is located within a Flood Risk Area. Figure 21 of the applicants FRA overlays the proposed site layout and the predicated fluvial flood extents (Flood Zone A and B) and it would appear that Flood Zones A and B encroaches on 2 no. proposed residential dwellings (29 and 30) open spaces, roads, footpaths and car parking spaces.

7.6.4. Flood Risk zones are determined on the probability of river and coastal flooding only, other sources do not affect the delineation of flood risk zones.

7.6.5. The FRA notes potential sources of flooding as outlined below: -

Tidal / Coastal Flooding: The site is not located within a coastal or tidally influenced region.

Fluvial Flooding: The Slate River is located at the sites northern boundary and the Curryhills Stream is at the sites western boundary. The primary potential flood risk to the proposed development is from an extreme fluvial flood event in the Slate River or the Curryhills Stream.

Pluvial Flooding: Due to the topography of the site it is not considered to be at risk from pluvial flooding. The proposed drainage infrastructure, which includes SuDS, will control the discharge rate of surface water runoff and limit the outflow from the site to

the existing greenfield scenario. The site is not considered to be at risk from pluvial flooding.

Existing Infrastructure: The site is not considered to be at risk from flooding from existing drainage or watermain infrastructure.

Groundwater Flooding: The site is not considered to be at risk from groundwater flooding and no basement levels are proposed as part of the development.

7.6.6. The Planning System and Flood Risk Management Guidelines, 2009 outlines in Table 3.1 the 'vulnerability of different types of development'. The proposed development is residential in nature and, therefore, classified as 'Highly Vulnerable Development'. A creche is not identified as a use, however, a school is identified as a highly vulnerable development, therefore, it is my view that a creche would also be considered a highly vulnerable development. It is noted that the majority of the site, including the creche and 72 no. residential units are located in Flood Zone C, however, in my opinion a Justification Test is required in accordance with the guidelines.

7.6.7. Section 11 of the applicants FRA addresses each of the criteria set out in Box 5.1 of the guidelines. In my opinion it is considered appropriate to address each of the criteria.

1. The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines.

When the FRA was carried out the proposed development was located on lands zoned C: New Residential. However, the north eastern corner and the south western corner of the site have been re-zoning from C: New Residential to F: Open Space and Amenity in the Kildare County Development Plan 2023-2029. The areas re-zoned reflect the areas identified in the Strategic Flood Risk Assessment (SFRA) as being located in Flood Zones A and B, with a buffer around these areas. From the information available the exact number of units impact is unclear, however, in my view the Open Space and Amenity zoning objective applies to c. 18 no. houses (units 27, 28, 29, 30, 31, 32,, 35, 36, 37, 38, 39, 40, 80, 81, 82, 83, 84 and 85) and a portion of the internal access road, footpaths, car parking areas and areas of open space. While it is noted

that the FRA includes mitigation measures to reduce the risk of flooding, including raising the height of the road and the finished floor level of houses located within the flood zone area, it is my view that to grant permission for residential units in a flood zone and on lands zoned for Open Space and Amenity would be inappropriate and would materially contravene the zoning objective, which in my view is not justified in this instance.

It is acknowledged that the appeal was lodged prior to the re-zoning of the site, however, as a portion of the site is a risk from fluvial flooding and the proposed layout does not take account of the sites current zoning objectives it is my view that the development is not considered to be accordance with criteria 1.

2. The proposal has been subject to an appropriate flood risk assessment that demonstrates:

(i) The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;

The appeal site is located within a natural flood plain of the Slate River. The FRA states that the hydraulic modelling indicates that there is no significant increase in fluvial flood levels or extents when comparing the baseline and the proposed development either during the 1 in 100 year (Flood Zone A), the 1 in 100 year plus climate change of the 1 in 1,000 year flood event (Flood Zone B).

Section 10 of the FRA includes a number of images comparing the baseline scenario with the proposed scenario. From the illustrations provided it would appear that the proposed development would have a minor impact on the adjacent site, which accommodates the Prosperous Sewerage Pumping Station. This use is considered essential infrastructure and is also a highly vulnerable use. Therefore, while the impact may be negligible, having regard to the existing highly vulnerable use on the adjacent site, I agree with the observer that further consideration should have been given to any potential impact of the development on increasing the flood risk elsewhere.

I am not satisfied that Criteria 2(i) has been complied with.

- (ii) The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;**

It is proposed to increase the ground levels of the road and the finished floor level of the residential properties c. 0.5m above the 1 in 1,000 year flood event level of (85.548 OD). While these mitigation measures are noted and would reduce the impact to people and property within the site I have serious concerns regarding the location of residential uses within a flood zone. I am not satisfied that the proposed development minimises the risk of flooding to people, property, the economy and the environment as far as reasonably possible. Therefore, it is my opinion that the proposed application is not considered to be in accordance with criteria 2(ii).

- (iii) The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access; and**

As noted above, the finished floor level of the houses and the access road would be above the 1 in 1,000 year flood event level. Emergency service would not be impeded during a flood event. However, I have serious concerns regarding the location of residential uses within a flood zone. Therefore, it is my opinion that the proposed application is not considered to be in accordance with criteria 2(iii).

- (iv) The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.**

The majority of the proposed development is located on zoned and adequately serviced land and is contiguous to existing residential developments in Prosperous. It is my opinion that the proposed development generally contributes to the wider objective of consolidating the urban environment and incorporates high quality urban design which would support and enhance the development of the area. However, the

location of c. 12 no. houses, and a portion of the internal access road, footpaths and car parking on lands zoned for Open Space and Amenity due to their proximity to a flood zone is unacceptable. Therefore, it is my opinion that the proposed application is not considered to be in accordance with criteria 2(iv).

- 7.6.8. The planning authority raised no concerns regarding a potential flood risk. However, it is noted that this assessment was carried out under the previous development plan zoning objectives and SFRA. In my opinion, the proposed development does not satisfy the Justification Test as set out in the Guidelines as it is proposed to provide a highly vulnerable use in a Flood Zone and on lands which are zoned for Open Space and Amenity. The scheme would therefore be contrary to Objective IN O33 to manage flood risk in accordance with the sequential approach and requirements of the Planning System and Flood Risk Management Guidelines for Planning Authorities. As the issue of flood risk was raised by the observer I do not consider it to be a new issue.
- 7.6.9. Notwithstanding the above, it is my opinion that amendments to the development could provide an appropriate design solution. These alternatives include relocating residential uses away from the floodplain and lands zoned for Opens Space and Amenity. However, due to the proposed layout of the scheme it is my opinion that it is not appropriate to omit a number of residential units located on lands zoned Open Space and Amenity, as it would result in a poor quality layout with incomplete blocks and incidental areas of open space. It is, therefore, my recommendation that permission be refused for the overall scheme to allow for the comprehensive redevelopment of the site.
- 7.6.10. In addition, I agree with the observer that the applicant has not adequately demonstrated that the proposed development would not increase the flood risk to the adjoining site to the east, which accommodates the Prosperous Sewerage Pumping Station, which is a highly vulnerable use and that this requires further consideration. It is noted that the observer also raised concerns regarding the potential impact of the development on the Ballynaghfagh Bog SAC. This concerns is addressed in the Appropriate Assessment Section below.

8.0 **Appropriate Assessment**

8.1. A Natura Impact Assessment, incorporating a stage 1 Screening for AA, prepared by bec Consultants was submitted by way of further information on the 8th June 2021. The Report includes a description of the proposed development, identifies the European Sites within a possible zone of influence of the development and an assessment of the potential impacts arising from the development. The stage 1 assessment concludes that due to the short hydrological connection between the appeal site and Ballynafagh Bog SAC, a Stage 2 Appropriate Assessment has been carried out.

8.2. The Natura Impact Statement identifies elements of the project potentially impacting on the Natura network and mitigation measures to protect Natura sites. The NIS concluded that there would be no significant adverse effects on any Natura 2000 sites as a result of the proposed development, alone or in combination with other plans or projects.

8.2.1. Having reviewed the documents and submissions on the case, I am satisfied that the information provides a reasonable basis for the examination and identification of potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

8.3. **Stage 1 AA Screening**

8.3.1. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Brief Description of the Proposed Development

8.3.2. A description of the project is summarised in Section 2 of my report. In summary, the proposed development comprises the construction of 94 no. residential units and a creche. The surrounding area is urban in nature. The site is serviced by public water

supply and foul drainage networks. The development site is located in a heavily urbanised environment close to noise and artificial lighting. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site. The Slate River is located along the sites northern boundary and an unnamed water course, referred to by the applicant as Curryhills Stream, is located at the sites western boundary.

Zone of Influence

8.3.3. The proposed development is not located within or immediately adjacent to any European Site. Appropriate Assessment Guidance (2009) recommends an assessment of European sites within a Zone of Influence of 15km. However, this distance is a guidance only and a potential Zone of Influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. In accordance with the OPR Practice Note, PN01, the Zone of Interest should be established on a case-by-case basis using the Source- Pathway-Receptor framework and not by arbitrary distances (such as 15km). The Zone of Influence may be determined by connectivity to the proposed development in terms of:

- Nature, scale, timing and duration of works and possible impacts, nature and size of excavations, storage of materials, flat/sloping sites;
- Distance and nature of pathways (dilution and dispersion; intervening 'buffer' lands, roads etc.); and
- Sensitivity and location of ecological features

8.3.4. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

European Site Site Code	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Ballynafagh Bog SAC (000391)	Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150]	c. 200m west	Yes. Hydrologically connected via the Slate River and Curryhills Stream.	Yes
Ballynafagh Lake SAC (001387)	Alkaline fens [7230] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016] Euphydryas aurinia (Marsh Fritillary) [1065]	c. 1.8km west	No	No
Mouds Bog SAC (002331)	Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150]	c. 8km south	No	No
Pollardstown Fen SAC (000396)	Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] Petrifying springs with tufa formation (Cratoneurion) [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]	c. 11.8km south	No	No

- 8.3.5. The proposed development has no potential source pathway receptor connections to any other European Sites.

Identification of likely effects

- 8.3.6. *Ballynafagh Bog SAC (000391)*: The development site is not located within the SAC. Therefore, it would not result in temporary loss, disturbance or disruption of habitat. However, there is potential for effects on the SAC relating to construction discharges with the potential to cause a release of suspended solids and hydrocarbons into the hydrologically connected Slate River and / or Curryhills Stream, which has the potential to cause indirect effects on the water dependant species and habitats of the SAC through a reduction in water quality.
- 8.3.7. Given the proximity (c. 200m) and the hydrologically connection between the appeal site and Ballynafagh Bog SAC it is my view that in the absence of mitigation measures, it is not possible to rule out impacts which could negatively impact on qualifying interests of the SAC.
- 8.3.8. As outlined in the table above I am satisfied that the potential for impacts on the Ballynafagh Lake SAC (001387), Mouds Bog SAC (002331) and Pollardstown Fen SAC (000396) can be excluded at the preliminary stage due to the separation distance between the European site and the proposed development site, the nature and scale of the proposed development, the absence of a hydrological link and an absence of relevant qualifying interests in the vicinity of the works and to the conservation objectives of the designated sites.

Screening Determination

- 8.3.9. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in-combination with other plans or projects could have a significant effect on Ballynafagh Bog SAC, in view of the site's Conservation

Objectives, and Appropriate Assessment and submission of a NIS is, therefore, required.

8.4. ***The Natura Impact Statement***

8.4.1. The NIS examines and assesses the potential adverse effects of the proposed development on the Ballynafagh Bog SAC. I am satisfied that it was prepared in line with current best practice guidance and provides an assessment of the potential impacts to the designated sites and an evaluation of the mitigation measures proposed.

Appropriate Assessment of implications of the proposed development

8.4.2. The following is a summary of the objective assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

8.4.3. I have relied on the following guidance:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service.
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC

Ballynafagh Bog SAC

8.4.4. Section 12 of the NIS provides a detailed description of the Ballynafagh Bog SAC. Appendix III includes a copy of the Site Synopsis and Appendix IV includes the sites Conservation Objectives, this information is also available on the NPWS website (www.npws.ie).

8.4.5. The table below summarises the appropriate assessment and integrity test for the SAC. The conservation objectives, targets and attributes as relevant to the identified potential adverse effects have been examined and assessed in relation to all aspects of the project (alone and in combination with other plans and projects). I have also examined the Natura 2000 data forms as relevant and the conservation objectives supporting documents for the sites. Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed. In terms of possible in-combination effects, plans, programmes and existing and proposed developments were considered. This allows for clear, precise and definitive conclusions to be reached in terms of adverse effects on the integrity of European sites.

Ballynafagh Bog SAC

Key issues that could give rise to adverse effects includes: -

- Direct Impact on Water Quality

Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community interest.

Summary of Appropriate Assessment

Qualifying Interest feature	Conservation Objective	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Active raised bogs [7110]	To restore the favourable conservation condition of Active raised bogs in Ballynafagh Bog SAC	Changes to water quality from construction practices or accidental release or spillage.	No protective measures are required to prevent the proposed development from having an adverse effect on the SAC, due to the lack of a pathway.	No effects	Yes
Degraded raised bogs still capable of natural regeneration [7120]	The long-term aim for Degraded raised bogs still capable of natural regeneration is that its peat-forming capability is re-established; therefore, the conservation objective for this habitat is inherently linked to that of Active raised bogs (7110) and a separate conservation objective has not been set in Ballynafagh Bog SAC			No effects	Yes

Depressions on peat substrates of the Rhynchosporion [7150]	Depressions on peat substrates of the Rhynchosporion is an integral part of good quality Active raised bogs (7110) and thus a separate conservation objective has not been set for the habitat in Ballynafagh Bog SAC			No effects	Yes
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- 8.4.6. Section 13 of the NIS notes that there is a hydrological link between the appeal site and Ballynafagh Bog SAC. Therefore, any pollutants that enter the river would flow downstream towards the southern boundary of the SAC.
- 8.4.7. As outlined in the table above, Ballynafagh Bog SAC is designated for the protection of three raised bog habitats, which are intrinsically linked. The NIS notes that the development of raised bogs results in a habitat that is fed by rainfall, is low in nutrients and acidic in nature. As this habitat is raised above the surrounding landscape it is disconnected from groundwater, rivers and streams. It is noted that the raised bog habitat is also separated from the watercourse by grassland. The direction of flow of water is from the high bog, where the three Qualifying Interests of the SAC are located, to groundwater or to the Slate River. There is no potential for pollutants from the proposed development site to interact with any of the raised bog habitats. Therefore, there is no potential for any adverse effects.

In-combination Effects

- 8.4.8. As the proposed development would have no adverse effect on Ballynafagh Bog SAC there is no possibility of it contributing to an in-combination effect with other plans or projects.

8.5. *Appropriate Assessment Conclusion*

- 8.5.1. The proposed development has been considered in light of the assessment requirements of Section 177 of the Planning and Development Act, 2000 (as amended).
- 8.5.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Ballynafagh Bog SAC due to a hydrological link and the close proximity between the sites. Consequently, a Stage 2 Appropriate Assessment (NIS) was required of the implications of the project on the qualifying features of the site in light of its conservation objectives.
- 8.5.3. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not

adversely affect the integrity of Ballynafagh Bog SAC, or any other European site, in view of the site's Conservation Objectives.

- 8.5.4. It is also noted that the planning authority's Heritage Officer concluded that due to the nature of the qualifying interests of Ballynafagh Bog, it is not considered that this application would have a significant effect on the SAC.

9.0 Recommendation

It is recommended that permission be refused for the following reasons and considerations.

10.0 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 development, the sites 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, therefore, contravene materially the zoning objective pertaining to the north eastern and south western portions of the site. Therefore, the Board considered that the proposed development as submitted would not be in accordance with 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 2 no. 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'. 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 prejudicial to public health. The proposed development would, therefore, be contrary to 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.

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.

Elaine Power
Senior Planning Inspector

26th January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	314153-22		
Proposed Development Summary	The construction of 94 no. residential units and a creche.		
Development Address	Curryhills, Prosperous, Co. Kildare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion
No	N/A		No EIAR or Preliminary Examination required
Yes	10 (b)(i): Construction of more than 500 dwelling units	The proposed scheme falls below	Proceed to Q.4

		<p>10 (b)(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.</p> <p>15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.</p>	the applicable thresholds.	
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4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Appendix 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	314153-22		
Development Summary	The construction of 94 no. residential units and a creche.		
Examination			
			Yes / No / Uncertain
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?			No
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?			No
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?			No
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?			No
Comment (if relevant)			
Conclusion			
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **?			
There is no real likelihood of significant effects on the environment	EIAR not required		X
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required		No
	Sch 7A information submitted?	Yes	No
There is a real likelihood of significant effects on the environment	EIAR is required (Issue notification)		

Inspector _____ **Date:** _____

DP/ADP _____ **Date:** _____

(only where EIAR/ Schedule 7A information is being sought)

* Sensitive locations or features include SAC/ SPA, NHA/ pNHA, Designated Nature Reserves, and any other ecological site which is the objective of a CDP/ LAP (including draft plans)

** Having regard to likely direct, indirect and cumulative effects