

An
Bord
Pleanála

Inspector's Report

ABP-321717-25

Development

Permission for seven-year planning
permission for constructing 93
dwellings. A Natura Impact Statement
(NIS) accompanies this application

Location

Curryhills, Prosperous, Co. Kildare

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

2461111

Applicant(s)

Bernard Moran

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Appellant(s)

Bernard Moran

Observer(s)

None

Date of Site Inspection

2nd April 2025

Inspector

Emer Doyle

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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 proposed development is located within the townland of Curryhills. The subject site is situated to the north of the R403 main arterial route through Prosperous and 30km from Dublin City Centre. The site is within easy walking distance of a number of commercial and community facilities including local shops, churches and schools.
- 1.2. The site is bounded to the south by the Downings and Emerson Court residential developments, to the west and north by agricultural lands and to the east by a wastewater treatment plant and a site recently granted planning permission for 34 no. dwellings under An Bord Pleanála Ref. (ABP. 316854-23).
- 1.3. The native hedgerows which define the existing field boundaries and are part of the local green infrastructure network will be retained where possible. The site will be accessed via the Emerson Court access road which runs to the south east of the site. The surrounding area is suburban in nature.
- 1.4. 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. The River Slate runs along the northern boundary of the site. Ballynafagh Bog SAC (000391) is located c. 180m west of the appeal site on the opposite side of the River Slate.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 93 No. dwellings and a creche as follows:
 - 10 no. 4-bed dwelling houses
 - 45 no. 3-bed dwelling houses

- 10 no. 2-bed dwelling houses
- 14 no. 2-bed apartments/maisonettes (including duplex units) and 14 no. 1-bed apartments/maisonettes in 2 No. three storey blocks
- Single storey creche with a stated floor area of c. 220m²
- The development provides for the construction of a link road
- A landscaped linear park is proposed along the River Slate
- The development provides for a pedestrian link to The Downings housing estate
- Provision has also been made for connections to the lands zoned 'new residential' to the east recently granted planning permission, 'Open Space and Amenity' to the south and west, and to the north via the proposed link round under objective ST P18. Connections to lands to the west and north are subject to separate planning applications
- A 7-year permission is sought

2.2. In addition to the standard plans and particulars, the application is accompanied by the following documents and reports:

- Natura Impact Statement
- Operation Waste Management Plan
- Social Infrastructure Assessment
- Statement of Compliance with Universal Design
- Statement of Housing Mix
- Traffic and Transport Assessment
- Outdoor Lighting Report
- Infrastructure Design Statement
- Preliminary Construction Waste Management Plan
- Preliminary Construction and Environment Management Plan
- Arboriculture Report

- Statement of Consistency with DMURS
- Site Specific Flood Risk Assessment
- Quality Housing Assessment
- Planning Application Statement of Consistency
- Road Safety Audit Stage 1/2
- Building Lifecycle Report
- Design Statement
- Archaeological Appraisal Report

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Permission was refused for 3 No. reasons as follows:

1. Table 2.8 of the Kildare County Development Plan 2023-2029 sets out the Core Strategy of the County and includes the housing target for Prosperous. Having regard to the scale of the proposed development and the number of planning permissions granted for residential units in Prosperous in the plan period to date, it is considered the proposed development would significantly exceed the housing target set out in the core strategy and would materially contravene policy STP1 and objective CS O1 of the Kildare County Development Plan 2023-2029 which seek to ensure compliance with the core strategy and ensure the growth and spatial development of the county is in accordance with the housing allocations in the core strategy. Furthermore, to permit the proposed development would have negative implications on the future housing target for Prosperous in any future development plan and would set an undesirable precedent for a similar approach to development elsewhere in the county. Therefore, it is considered the proposed development would not be in accordance with the proper planning and sustainable development of the area.

2. The proposed development seeks to provide a portion of the residential development and the crèche 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” and “Creche” are listed as uses which are not permitted on lands zoned for “Open Space and Amenity”. Having regard to the location of private open spaces associated with a number of residential units and the outdoor space associated with the creche being located on land zoned for “Open Space and Amenity” purposes, the proposed development would contravene materially this zoning objective in the Prosperous Town Plan in Volume 2 of the Kildare County Development Plan 2023-2029. Therefore, it is considered the proposed development would not be in accordance with the proper planning and sustainable development of the area.

3. Apartment Blocks 2 and 3 due to their poor architectural detailing, balcony types, use of railings and substandard side elevational treatment, would be contrary to the provisions of Chapter 14 ‘Urban Design, Placemaking and Regeneration’ of the Kildare County Development Plan 2023-2029, in particular Objective UD 01 which requires a high standard of urban design to be integrated into the design of all new developments. Therefore, it is considered the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Case Planner notes that since the adoption of the 2023-2029 Plan, a total of 74 units have been permitted within Prosperous. Therefore the remaining capacity in Prosperous for the 2023-2029 plan period (Q4 2028) is 17 units. It is noted that the proposed development is for a 7 year period which would span two Development Plan periods. The proposed capacity of Prosperous for the new Development Plan is unknown, but it is considered that the proposed development resulting in 76 units being taken from any future capacity for Prosperous could have significant consequences for the

development of the town in the future. This would also set an undesirable precedent for a similar approach to development elsewhere in the County.

3.2.2. Other Technical Reports

- **Water Services:** Required Further Information in relation to the inclusion of detention basins as part of the development. These are included in the drawings but not mentioned in the infrastructure report, provide cross sections of the proposed detention basins to ensure that they are designed in accordance with Chapter 22 of the the SuDS Manual.
- **Parks Section, Transport, Mobility and Open Spaces:** Requires Further Information in relation to SuDS measures and landscaping. It is recommended that the creche shall have its own open space.
- **Environment Section:** Requires Further Information in relation to management of waste.
- **Building Control Section:** Recommend permission subject to conditions.
- **Roads, Transportation and Public Safety Department:** Requested further information to include an acoustic design statement, revisions to the road safety audit, bicycle parking in accordance with Table 15.4 of the Development Plan.
- **Housing Section:** Recommends permission subject to conditions.

3.3. Prescribed Bodies

- 3.3.1. **Uisce Eireann:** The applicant has recently submitted a pre-Connection Enquiry (PCE) which is currently being assessed. Therefore, the outcome of the PCE shall be submitted to the Planning Authority as a response to Further Information Request.
- 3.3.2. **Department of Housing, Local Government and Heritage:** No response to the Planning Authority. Submission to the Board. See below.

3.4. **Third Party Observations**

Four observations were received by the Planning Authority. The main concerns raised were in relation to the following issues:

- Inadequate social infrastructure including school capacity and health facilities
- Flood Risk
- Core Strategy
- Impacts on Ballynafagh Bog SAC

4.0 **Planning History**

Site

PA Reg. Ref. 20/1403/ ABP Ref. 314153-22

Permission refused by PA and by the Board on appeal for housing development on this site for 2 No. reasons. The first reason considered that the proposed development would materially contravene the zoning in that part of the development was located on lands zoned as 'open space and amenity.' The second reason related to flooding as the proposed layout provided for 2 no. houses and a portion of the internal access road, footpaths and car parking within Flood Zone A and B.

Adjacent Site to the east

PA Reg. Ref. 221135/ ABP Ref. 316854-23

Permission granted by PA and by the Board on appeal for the construction of 34 No. housing units.

5.0 **Policy Context**

5.1. Relevant National Guidelines include the following:

- National Planning Framework- First Revision April 2025
- Climate Action Plan 2025
- National Biodiversity Action Plan 2023-2030

5.1.1. **National Planning Framework (NPF) First Revision April 2025**

Relevant Policy Objectives include:

National Policy Objective 7: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.

National Policy Objective 11: Planned growth at a settlement level shall be determined at development plan-making stage and addressed within the objectives of the plan. The consideration of individual development proposals on zoned and serviced development land subject of consenting processes under the Planning and Development Act shall have regard to a broader set of considerations beyond the targets including, in particular, the receiving capacity of the environment

National Policy Objective 12: 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 22: 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.

National Policy Objective 42: To target the delivery of housing to accommodate approximately 50,000 additional homes per annum to 2040.

National Policy Objective 43: 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 45: 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, increased building height and more compact forms of development.

5.2. **Section 28 Ministerial Guidelines**

5.2.1. Having considered the nature of the proposal, the receiving environment, the and the documentation on file, 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

Design Standards for New Apartments, 2023

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

5.3. **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 with 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.

5.4. Kildare County Development Plan 2023-2029

5.4.1. The site has two zonings as outlined below.

5.4.2. Chapter 2 Core Strategy and Settlement Strategy, Chapter 3 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.

5.4.3. 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.

Prosperous Town Plan in Volume 2 of the KCDP 2023-2029

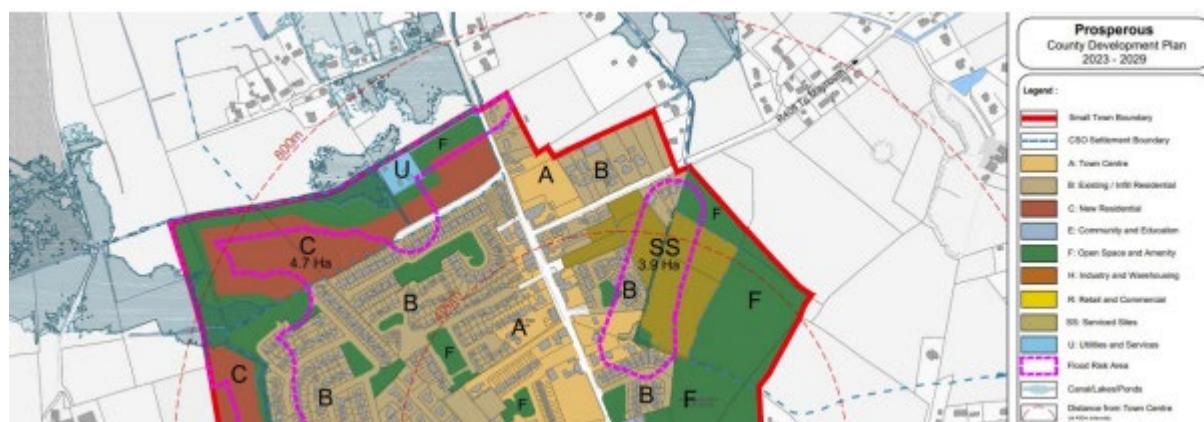
The application site is located on lands that are zoned:

- F Open Space (north)
- C New Residential (south).

Parts of the site are located within the Flood Risk Assessment Area.

There is a road objective traversing through the site from east/west.

There is a proposed walking route along the River Slate which runs along the western and northern boundaries of the site.



The objective of zoning C New Residential is “To provide for new residential development. 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.”

The objective of zoning F Open Space and Amenity is “To protect and provide for open space, amenity and recreation provision. The 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.”

Relevant policies within the Prosperous Town Plan:

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 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.’

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.

5.5. Natural Heritage Designations

The following designated sites are in close proximity to the appeal site.

- Ballynafagh Bog SAC (000391) c. 180m west of the appeal site.
- Ballynafagh Bog Proposed NHA c. 180m west of the appeal site.
- Ballynafagh Lake SAC (001387) c. 1.7km west of the appeal site.
- Ballynafagh Lake Proposed NHA c. 1.7km west of the appeal site.
- Grand Canal Proposed NHA c. 2.5km south of the appeal site.
- Hodgestown Bog NHA c. 2.7km north 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 93 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 2nd April 2025 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.

5.6.5. In light of the above and having carried out a preliminary examination of the project (See completed Form 2 Appendix 1), I am satisfied that the need for EIA in respect of this proposed scheme can be excluded.

6.0 The Appeal

6.1. The First Party grounds of appeal can be summarised as follows:

- In response to the first reason for refusal, there has been considerable change in National Policy having regard to housing in the NPF First Revision- NPO42 and NPO3.
- In response to the second reason for refusal, a revised site layout has been submitted which removes housing development from lands zoned as F: 'Open Space/ Amenity.'

- In response to the third reason for refusal, revised side elevation drawings have been submitted and revised proposals have been submitted in relation to finishes of balconies.
- Appendix A of the response contains an extract from the Prosperous LAP 2007.
- Appendix B of the response contains the government press release in relation to the Draft Revision to the National Planning Framework.
- Appendix C of the response contains details in relation to the issues raised by Water Services in their request for Further Information. The response includes details of the design of the proposed detention basins, calculations for rainfall data, and an additional 10% to the storage design of surface water.
- Appendix D of the response contains details in relation to the issues raised by Roads, Transport and Public Safety in their request for Further Information. The response includes an Acoustic Design Statement for the proposed link road, proposals for railings in front gardens of houses adjacent to the link road in the interests of safety, and details of cycling parking for the proposed creche.
- Appendix E of the response contains a letter from Uisce Eireann stated that the proposed connection to the development site can be facilitated.
- Appendix F of the response contains a letter from the Parks Section, Transport, Mobility and Open Spaces in relation to the issues raised in their Further Information Request. The response includes revised information in relation to SuDS features, to include permeable paving, rain gardens, tree pit swales and detention basins, revised tree planting proposals and revised boundary treatment for houses 1-7, revisions to site layout to provide additional crossing points, provision of private open space for the creche.
- Appendix G of the response contains details in relation to the issues raised by the Environment Section in their request for Further Information. The response includes revised information relating to waste management.

6.2. Planning Authority Response

- Response dated 5th of February 2025 notes the contents of the appeal. The Planning Authority confirms its decision and refers the Board to all reports on file.

6.3. Observations

- None.

6.4. Prescribed Bodies

Department of Housing, Local Government and Heritage

Response to the Board dated 14th March 2025.

6.4.1. In relation to Ballynafagh Bog SAC, the Natura Impact Statement rules out impacts on same. The Department is concerned that a hydrogeological risk assessment has not been carried out, and that groundwater impacts on the SAC and its habitats have not been fully assessed.

6.4.2. In relation to Ballynafagh Lake SAC, the AA Screening submitted with the application rules out impacts and states that there is no hydrological link. This is incorrect as there is a hydrological connection between the proposed development and Ballynafagh Lake SAC and subsequently is a pathway for significant adverse effects on this designated site.

6.4.3. Consideration must be given to the hydrogeological connectivity between the proposed development site and Natura sites. Any adverse impacts on groundwater could negatively affect the Site-Specific Conservation Objectives for Natura 2000 sites. The maintenance of a high water table is essential to sustain raised bog and fan habitats and species. Ballynafagh Bog SAC has Annex 1 raised bog habitats and Ballynafagh Lake SAC has Annex 1 alkaline fen habitat, all of which are dependent on high water tables. Ballynafagh Lake SAC is also designated for two groundwater dependent habitats/ species- Alkaline fens and Desmoulins Whorl Snail. The proposed development is also located within the same groundwater body

as Ballynafagh Lake SAC, i.e. the Kildare GWB, which has not been acknowledged in the NIS. Annex II Vertigo species rely on stable and specific groundwater conditions and are vulnerable to changes in surface and groundwater quality which may impact the habitats they rely on.

- 6.4.4. The report does not address potential hydrological and hydrogeological impacts on the Qualifying Interest habitats and species. The Department recommends that Further Information is provided on this to ensure that all potential impacts on Annex 1 habitats and Annex II species are assessed.
- 6.4.5. The Department recommends that Further Information is provided on the potential for air quality impacts during construction on nearby European sites.
- 6.4.6. Impacts on ex-situ sites from the proposed development for marsh fritillary butterfly need to be considered.
- 6.4.7. An Ecological Impact Assessment report is required to ensure compliance with Objective BI O1 of the Kildare County Development Plan to include a breeding bird survey, a badger survey, an otter survey and a bat survey.
- 6.4.8. The Department also recommends Further Information in relation to the proposed Natural Heritage Areas in proximity to the site.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the planning authority and having inspected the site, and having regard to the local/ regional/ national policies and guidance, I consider the substantive issues are as follows:
 - Principle of Development
 - Core Strategy
 - Social Infrastructure Assessment
 - Design and Layout

- Flooding
- Other Matters
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The site is located within the development boundary of Prosperous, Co. Kildare and on lands subject to two zonings. The majority of the site is zoned as C: New Residential with associated land use objective 'to provide for new residential development'. Part of the site is located in lands zoned as 'F' Open Space and Amenity'

7.2.2. The second reason for refusal by the Planning Authority considered that

'The proposed development seeks to provide a portion of the residential development and the crèche 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" and "Creche" are listed as uses which are not permitted on lands zoned for "Open Space and Amenity". Having regard to the location of private open spaces associated with a number of residential units and the outdoor space associated with the creche being located on land zoned for "Open Space and Amenity" purposes, the proposed development would contravene materially this zoning objective in the Prosperous Town Plan in Volume 2 of the KCDP 2023-2029. Therefore, it is considered the proposed development would not be in accordance with the proper planning and sustainable development of the area.'

7.2.3. In response to this reason for refusal, the applicant has amended the Site Layout Plan Drawing No. 24011-307A to remove all development from lands zoned as F: Open Space/ Amenity. The open space associated with the creche and units 19, 27 and 34 have been removed from this land by relocating the proposed development in a southwards direction. I am satisfied that this amendment has addressed the second reason for refusal by the Planning Authority and all proposed development is now in lands zoned as 'New Residential'.

7.2.4. I note that the Board previously refused permission for development on this site under An Bord Pleanála Ref. 314153-22. The first reason for refusal considered that the development of dwellings on lands zoned on 'F: Open Space and Amenity' would materially contravene the zoning objective. In the layout submitted under this application, a total of 18 no. of the proposed 94 no. dwellings were located on this zoning.

7.2.5. A new layout was submitted under the current appeal which removed housing from the lands zoned as 'F' save for the elements of the proposal as set out above. I am satisfied that the revised layout submitted in response to the appeal addresses the reason for refusal by Kildare County Council in the current appeal.

7.2.6. Overall, I am satisfied that the applicant has addressed the issues raised in relation to zoning in both the previous application refused by the Board and the current application refused by the Planning Authority. The development site is located on zoned and serviced lands within the town of Prosperous. The previous Board Order on ABP Ref. 314153-22 considered the development of the site to be acceptable and appropriate in principle. Accordingly, the principle of the scheme is acceptable at this location.

7.3. Core Strategy

7.3.1. The second reason for refusal by the Planner Authority considered that the proposed development would significantly exceed the housing strategy set out in the Core Strategy and materially contravene Policy STP 1 and Objective CS 01 of the County Development Plan which seeks to ensure compliance with the core strategy and ensure that growth and spatial development of the county is in accordance with the housing allocations in the core strategy.

7.3.2. The appeal response makes the case that the national policy environment on housing development proposals has changed markedly in the last year and since the CDP 2023-2029 came into effect in 2023. Population and housing trends have led to public pressure for action by the state and the government have updated the National Planning Framework (NPF). The appeal response also refers to a previous appeal for a 237 no. residential development in Leixlip, Co. Kildare (ABP Ref. 317913-23). The Inspector's report stated that 'the policy objectives in both the

Leixlip LAP and CDP regarding density and the core strategy are not absolute and instead allow for appropriate and necessary levels of flexibility, which reflects the density range advised in national guidance and allows for considerations of site-specific conditions.'

- 7.3.3. The NPF update includes revised National Policy Objectives together with a projected substantial increase in national and regional population and housing demand over and above the figures in the original NPF in 2018.
- 7.3.4. National Policy Objective 42 in the November 2024 update of the NPF states that it is an objective to target the delivery of housing to accommodate approximately 50,000 additional households per annum in 2040.

National Policy Objective 3 envisages that the Eastern and Midland Region where Prosperous is located will have 470,000 additional people between 2022 and 2040 (c. 690,000 additional people over 2016-2040) i.e. a population of almost 3 million.

- 7.3.5. The appeal notes that this land is zoned and the Board previously considered that the development of these lands was acceptable and appropriate.
- 7.3.6. I have reviewed the previous Inspector's report under An Bord Pleanála Ref. 314153-22. The main points made concerning the core strategy are as follows:

- This proposed scheme alone of 94 no. units would exceed the core strategy of 91 units.
- There is a current appeal on an adjacent site for 34 no. dwellings under An Bord Pleanála Ref. 316854-23 and another appeal under An Bord Pleanála Ref. 313893-22 for 12 dwellings on a site zoned town centre. Therefore, there is a potential for c. 140 no additional units in Prosperous by 2040.
- It is acknowledged that the proposed combination alone and in combination with other proposed development has the potential to exceed the population and unit targets set out in the Core Strategy.
- The quantum of land zoned 'New Residential' in the Prosperous Zoning Map has the potential to deliver a minimum of 387 no. residential units. This doesn't include other land use zonings e.g. Town Centre, Existing Residential, and Serviced Sites which also allow for residential development.

- The information on the OPR website indicates that concerns were raised regarding the zoning of 4.7 ha of land to the north of Prosperous which includes the appeal site, however, the development plan was adopted in January 2023 without any amendment to the quantum of lands zoned for 'New Residential'.
- The Inspector was satisfied that the proposed quantum of development would be justified under Section 37 (2)(b)(ii) as there are conflicting objectives in the core strategy and the zoning objective for the site.

7.3.7. It is an objective under STP 1 of the Development Plan to monitor the scale, rate and location of newly permitted developments and apply appropriate development management measures to ensure compliance with the Core Strategy. Since the adoption of the 2023-2029 Plan, a total of 75 no. residential units have been permitted within Prosperous according to the Design Statement submitted with the application. The Case Planner notes that 74 units have been granted since the adoption of the Development Plan and states that the remaining capacity in Prosperous is 17 units. These figures include the 46 units granted by the Board in February and April 2024 under ABP 313893-22 (12 units) and ABP 316854-23 (34 units) since the previous refusal on the site. The Case Planner also notes that c. 82% of the proposed development is over the capacity for Prosperous for this plan period. The proposed capacity for Prosperous for the next plan is unknown but it was considered that the proposed development could have significant consequences for the development of the town in the future and set an undesirable precedent for the County.

7.3.8. I note that Prosperous is described in Table 2.7 as a town in the Settlement Hierarchy. This is at the bottom level of designations for which housing targets have been assigned under the core strategy. Towns in this category provide local service and employment functions in close proximity to higher order urban areas.

7.3.9. The Core Strategy allocated a housing target of 91 units to Prosperous for the period 2023 to 2028. This figure is based on a 1.04% share of the overall housing and population target for the county (9,144 total Co. Kildare). The population target is 251 people.

7.3.10. In relation to the appeal in Leixlip mentioned above, I consider that the circumstances are different as the case was made that a density of 40 dwellings per hectare **may** render the core strategy redundant. There was a concern that by allowing increased densities on sites over that predicted in the core strategy, the overall number of houses would go over that provided for in the core strategy. Leixlip is designated as a 'Self sustaining growth town'.

7.3.11. In the current appeal, density is not a consideration in whether the number of units would contravene the core strategy, rather it is the number of units proposed. Another significant difference is that the designation of Prosperous in the Settlement Hierarchy as a 'town'. The category of 'self sustaining town' is above 'town' and below 'self sustaining growth town'. As such, Leixlip is two categories above Prosperous in terms of the Settlement Hierarchy and Typology as set out in Table 2.7 of the Core Strategy. Self- Sustaining Growth towns are described as having moderate levels of jobs and services. The town of Leixlip has access to significant employment opportunities both in Leixlip itself at Intel, and close by in Hewlett Packard, as well as a very wide range of services and facilities and amenities.

7.3.12. I note also that since the previous refusal on this site, the Board has refused permission for a number of housing applications in Clane which is located c. 4.5km to the west of the site on the basis of exceedance of the quantum of development set out in the core strategy of the Kildare County Council Development Plan. Clane is a larger town with more services and facilities and is designated in the Core Strategy as a 'Self Sustaining Town' where the preferred development strategy is measured growth with an emphasis on economic growth. Clane had previously been in the same category as Prosperous as a 'Town' in the Kildare County Council Development Plan 2017-2013 but was upgraded to a 'Self Sustaining Town' under the current plan. The reason for refusal in the cases noted above related to the Settlement Strategy as set out in the Plan and the exceedance of the housing and population targets as set out in the Core Strategy.

7.3.13. The National Planning Framework First Revision was adopted in April 2025 with the aim to ensure that housing supply meets both new demand and addresses existing need. In terms of Irelands' future population, there is significant unmet demand for

housing in Dublin and the Mid Eastern Region in particular. NPO 3 outlines that planning is required for approximately 470,000 additional people between 2020 and 2040 (c. 690,000 additional people over 2016-2040) i.e. a population of almost 3 million. The NPF focuses on targeted growth, rather than precise numbers with NPF Objective 7 to deliver at least 40% of all new homes nationally, within the built up footprint of existing settlements and ensure compact and sequential patterns of growth. At least half of the targeted growth is provided for in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford with a target of at least 30% outside of these five cities within the built up foot-print of existing settlements (NPO 8 and NPO 9). For the mid east region, it is recognised that managing the challenges of future growth is critical to this regional area with a more balanced and sustainable pattern of development required. This means that housing development should be infrastructure led and primarily based on employment growth, accessibility by sustainable transport, rather than unsustainable commuting patterns.

- 7.3.14. I note that the appeal was lodged with the Board in January 2025 after the revised NPF housing targets were adopted in November 2024 but before the NPF First Revision was adopted in April 2025.
- 7.3.15. I note that the main case made by the appeal is that the revised housing targets should be considered and this is zoned land within Prosperous village. In light with the NPF, revised targets will have to be considered for all areas of the country. New targets have not yet been translated into Development Plans. I note that NPO Objective 43 is as follows: Prioritise the provision of new homes at locations that can support sustainable development at an appropriate scale relative to the location.
- 7.3.16. I acknowledge that the previous reason for refusal by the Board did not include any reason for refusal relating to the core strategy. At the time of this reason for refusal, there were two appeals for a total of 46 units in Prosperous which were subsequently granted by the Board. The NPF First Revision has been adopted since the previous refusal, and I acknowledge that the main targets are the delivery of 50,000 additional homes per annum to 2040 (NPO 42) and to prioritise the delivery of these homes at locations that can support sustainable development and at an appropriate scale (NPO 43).

7.3.17. Section 3.2 of the NPF considers that managing the challenges of future growth is critical to this regional area. A more balanced and sustainable pattern of development with a greater focus on addressing employment creation, local infrastructure needs, including in particular social and community infrastructure needs to be prioritised. Key future planning and development and place making policies for the Eastern and Midland areas on the key strategic and public transport routes in a regionally co-ordinated manner.

7.3.18. In terms of policy, whilst the NPF First Revision does provide for more flexibility and developing homes in a more balanced and sustainable manner rather than focusing on targets, I have some concerns in relation to the quantum of development proposed, and the implications of this for future development in Prosperous and the precedent this may set in Co. Kildare and elsewhere. The proposed development taken with existing and permitted development will exceed the targets set out in the Core Strategy and will therefore be contrary to Objective CS01 of the Development Plan. The proposed development is in a small town where employment opportunities are limited. On balance, however, I note the Board Order of the previous application on the site which stated that 'given the nature and scale of the proposed development, the site's urban location and its proximity to public transport, the Board considers the development of this site to be acceptable in principle.'

7.3.19. Taken together with NPO7 to deliver at least 40% of all homes nationally within the built up footprint of existing settlements, and NPO9 to deliver at least 30% of all new homes that are targeted in settlements other than the five cities and their suburbs within their existing built-up footprints and ensure compact growth and sequential patterns of growth, I am satisfied that the proposed development is acceptable and in line with current national policy.

7.3.20. 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.

7.3.21. Taking each of these in turn I conclude:

- (i) The provision of new homes at locations that can support sustainable development is of national importance with an amended target in the NPF to deliver approximately 50,000 homes per annum. However, whilst the proposed development would contribute to this overall target, I do not consider that the development is of strategic or national importance.
- (ii) There are no conflicting objectives, and all objectives are quite clear in relation to the proposed development.
- (iii) Appendix 8 of the Development Plan provides a statement of compliance with Section 28 Guidelines and sets out which guidelines have been incorporated into the relevant chapters. I note that The National Planning Framework First Revision has been adopted since the Development Plan came into effect. Whilst the quantum of development proposed exceeds the targets set out in the core strategy, the NPF First Revision recognises the need to plan for significant growth to deliver housing around the country to meet additional population needs and aims to deliver at least 30% of all new homes within the existing built up footprints of existing settlements outside of the five cities and their suburbs.
- (iv) The pattern of development and permissions granted in Prosperous since the making of the Development Plan in January 2023 does not suggest a pre-disposition to materially contravening the land use zoning objectives.

In conclusion, I consider that it is open to the Board to grant permission in this case.

7.4. Social Infrastructure Assessment

7.4.1. It is a stated objective under the current Development Plan (SC 016) to require residential schemes of 20 units or greater to submit a Social Infrastructure Audit. I have examined the Social Infrastructure Assessment submitted with the application and note that there are a wide variety of services and facilities in the vicinity of the site including sports fitness and recreational facilities, community facilities, health care services, religious facilities, childcare facilities, primary and post primary schools, and retail and commercial facilities. The area of the social infrastructure assessment was widened to over 5km so that services of Clane which offers many services and facilities used by existing residents of Prosperous are also considered.

7.4.2. In my view there is an overreliance on Clane and other areas in this assessment- for example of the 26 sports, fitness and recreational facilities identified, only 6 are within 1.5km of the site, for community facilities, of the 8 identified, only 2 are within 1.5km of the site, for health care providers, of the 30 facilities identified, only 4 are within 1.5km of the site. I note that the nearest G.P is 5km from the site. The nearest public transport is c. 400m from the site which is a bus service running every half hour in the mornings and an hourly service thereafter. The nearest railway station is in Sallins c. 9km from the site.

7.4.3. Having regard to the above, it would appear that many of the services and facilities identified in all categories are not easily accessible without the use of a private car.

7.4.4. Section 2.5 of the Development Plan acknowledges the concept of a 10 minute settlement to create integrated communities that can provide safe links to public transport, local shops and services, amenity areas, places of worship etc. Such a concept allows for sustainable transport options (walking and cycling) to become realistic and convenient options. However, it acknowledges that the results may not be as effective in smaller towns and villages due to their critical mass to support local services and employment centres. In such instances, it is acknowledged that there is a degree of inter-dependency between nearby settlements with regard to the provision of local services and facilities.

7.4.5. I am satisfied that the range of facilities and services on offer are appropriate to its designation as a ‘Town’ in the Core Strategy of the Development Plan.

7.5. Design and Layout

7.5.1. The second reason for refusal by the Planning Authority considered that ‘The proposed development seeks to provide a portion of the residential development and the crèche 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” and “Creche” are listed as uses which are not permitted on lands zoned for “Open Space and Amenity”. Having regard to the location of private open spaces associated with a number of residential units and the outdoor space associated with the creche being located on land zoned for “Open Space and Amenity” purposes, the proposed development would contravene materially this zoning objective in the Prosperous Town Plan in Volume 2 of the KCDP 2023-2029. Therefore, it is considered the proposed development would not be in accordance with the proper planning and sustainable development of the area.’

7.5.2. In response to this reason for refusal, the applicant has amended the Site Layout and as set out in Section 7.2 of this report, I am satisfied that the revised layout this has addressed the second reason for refusal by the Planning Authority and all proposed development is now in lands zoned as ‘New Residential’.

7.5.3. The third reason for refusal by the Planning Authority considered that ‘*Apartment Blocks 2 and 3 due to their poor architectural detailing, balcony types, use of railings and substandard side elevational treatment, would be contrary to the provisions of Chapter 14 ‘Urban Design, Placemaking and Regeneration’ of the Kildare County Development Plan 2023-2029, in particular Objective UD 01 which requires a high standard of urban design to be integrated into the design of all new developments.*’

7.5.4. In response to this reason for refusal, revised drawings have been submitted with the appeal. The revised proposals provide for the replacement of the steel balconies on Blocks 2 and 3 with a stainless steel frame and a glass infill balcony. In lieu of

metal railings in the side elevation at 2nd floor level of Blocks 2 and 3, a toughened glass balustrade is proposed. A number of different finishes are proposed including partial limestone cladding and a selected render finish. The Case Planner's main concern was that the use of balustrade railings on the Juliette balconies and terrace/balconies are a poor material choice and represent a dated approach to the materials and give a defensible appearance to the elevations. I am satisfied that the revised proposals address this reason for refusal.

7.5.5. Objective UD O1 requires a high standard of urban design to be integrated into the design and layout in all new development and ensure compliance with the principles of healthy placemaking by providing increased opportunities for physical activities, social interaction and active travel, through the development of compact, permeable neighbourhoods which feature high-quality pedestrian and cyclist connectivity, accessible to a range of local services and amenities. The River Slate flows along the northern boundary of the subject site. The CDP recognises the river is a valuable amenity resource in the town and the council is committed to protecting and enhancing this river. The proposed development has been designed to address the River Slate and provide a linear park along the banks of the Slate in accordance with ST P8 of the Prosperous Town Plan, The Linear Park will also facilitate the flood storage compensation area. The development has been designed to create active street frontages that and minimise the risks of anti-social behaviour. I consider that provision has been made for pedestrian and cyclist connectivity with connections to both existing residential development to the south of the site and proposed residential development to the east of the site.

7.5.6. Objective ST P18 of the Prosperous Town Plan requires the reservation of land for the proposed link road to the northwest and northeast of the town between Ballynafagh Road and the R403. This link road has been designed as part of the scheme and indicated on the site layout plan.

Density

7.5.7. In determining the appropriate density, I refer to the 'Sustainable Residential Development & Compact Settlements Guidelines (2024)'. The subject site is appropriately categorised as being a Small and Medium Sized Towns (1,500 – 5,000 population). The Compact Settlement Guidelines instructs it is a policy and

objective of these Guidelines that densities in the range 25 dph to 40 dph (net) shall generally be applied at the edge of small to medium sized towns. The density of the proposal equates to 28.2 no. units per ha which accords with the Sustainable Residential Development & Compact Settlements Guidelines and is therefore acceptable at this location.

Housing Mix

7.5.8. In terms of housing mix the proposal provides for the following:

- 14 no. 1 bedroom apartments
- 14 no. 2 bedroom apartments
- 10 no. 2 bedroom semi-detached dwellings
- 40 no. 3 bedroom semi detached dwellings
- 5 no. 3 bedroom semi detached dwellings
- 4 no. 4 bedroom detached dwellings
- 6 no. 4 bedroom semi-detached dwellings

7.5.9. I am satisfied in line with the Case Planner that the mix at 15% 1 bed units, 26% 2 bed units, 48% 3 bed units, 11% 4 bedroom units is acceptable and complies with HO P7 and HO O15 of the Development Plan in relation to housing mix and the provision of a wide variety of housing typologies.

7.5.10. The density, housing mix and design and layout is deemed appropriate for this location and the scheme as proposed would not have a detrimental impact on the residential or visual amenities of the area. I consider that the revised layout and design to has addressed the second and third reasons for refusal of the Planning Authority.

7.6. Flooding

7.6.1. I note that the second reason for refusal under An Bord Pleanála Ref. 314153-22 related to flooding.

7.6.2. The current application has been designed to address this concern. In addition, a Site Specific Flood Risk Assessment (SSFRA) has been submitted. The flood risk assessment shows the proposed development site is located within both a delineated Flood Zone 'A' and Flood Zone 'B'.

7.6.3. The assessment, analysis and flood zone delineation undertaken as part of the SSFRA indicates that a small portion in the north eastern corner of the proposed development site may be susceptible to inundation during the occurrence of a 1% AEP (1 in 100 year – Flood Zone 'A') and 0.1% AEP (1 in 1000 year – Flood Zone 'B') fluvial flood events in the Slate Stream (see Drawing Number IE2410-002-D, Appendix A). The proposed layout overlaid with the modelled predictive fluvial flood extents during the 1% AEP (1 in 100 year – Flood Zone 'A') and 0.1% AEP (1 in 1000 year – Flood Zone 'B') fluvial flood event is illustrated in Figure 22.

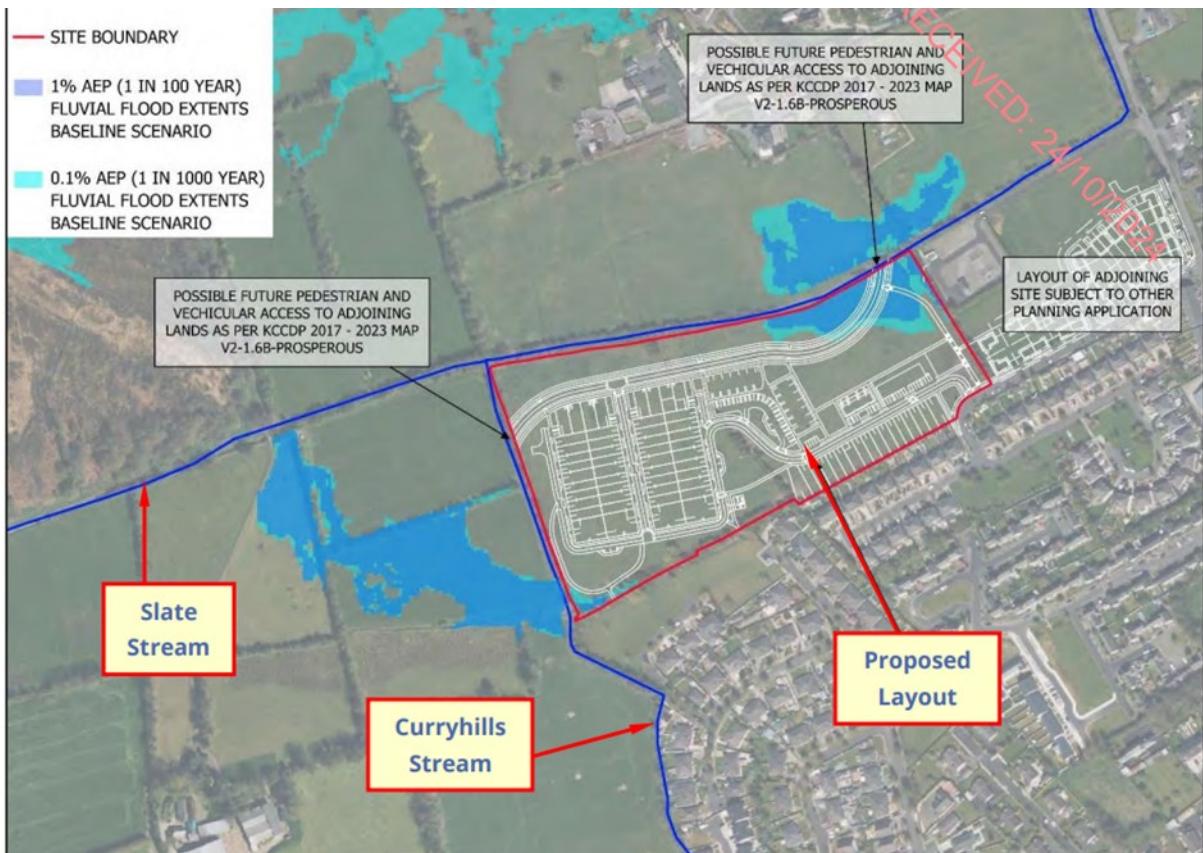


Figure 22 - Proposed Site Layout During Baseline 1% AEP and 0.1% AEP Fluvial Flood Event

7.6.4. As illustrated above in Figure 22 a small area of flooding also occurs in the south western corner of the site during the 1% AEP (1 in 100 year) and 0.1% AEP (1 in 1000 year) fluvial flood events, which is associated with the Curryhills Stream.

- 7.6.5. As illustrated in Figure 22, the flooding in the redesigned scheme does not overlap any proposed residential development or proposed roads.
- 7.6.6. In the northeastern corner of the proposed development site a limited area becomes inundated during the 1% AEP + CC (1 in 100 year plus climate change) fluvial flood event from the Slate Stream. A small part of the proposed link road falls within the delineated 1% AEP + CC (1 in 100 year plus climate change) fluvial flood zone. To address this, it is proposed to build the finished ground level of the road to a minimum level of 86.00m OD, which provides a freeboard of 0.55m above the 0.1% AEP (1 in 1000 Year) fluvial flood event.
- 7.6.7. I am satisfied that the redesign of the proposed scheme has addressed the second reason for refusal of the previous application on the site. The proposed development now complies with the justification test set out in 'The Planning System and Flood Risk Management Guidelines – DoEHLG-2009'. The analysis and flood zone delineation undertaken as part of this Site Specific Flood Risk Assessment (SSFRA) indicates that a small, limited portion in the north eastern corner of the proposed development site may be susceptible to inundation during a 1% AEP (1 in 100 year – Flood Zone 'A'), 1% AEP + CC (1 in 100 year plus climate change), and a 0.1% AEP (1 in 1000 year – Flood Zone 'B') fluvial flood event in the Slate Stream or the Curryhills Stream. The proposal to raise the proposed road to a minimum level of 86.00m OD as outlined above will address this concern.

7.7. Other Matters

Further Information as detailed in internal reports and in a report from Uisce Eireann

- 7.7.1. I note that the applicant submitted additional information in the appeal response to address the concerns raised by internal reports by the Council together with a letter from Uisce Eireann which stated that the proposed connection to the development site can be facilitated.
- 7.7.2. Appendix C of the response contains details in relation to the issues raised by Water Services in their request for Further Information. The response includes details of the design of the proposed detention basins, calculations for rainfall data, and an additional 10% to the storage design of surface water.

7.7.3. Appendix D of the response contains details in relation to the issues raised by Roads, Transport and Public Safety in their request for Further Information. The response includes an Acoustic Design Statement for the proposed link road, proposals for railings in front gardens of houses adjacent to the link road in the interests of safety, and details of cycling parking for the proposed creche.

7.7.4. Appendix F of the response includes revised information in relation to SuDS features, to include permeable paving, rain gardens, tree pit swales and detention basins, revised tree planting proposals and revised boundary treatment for houses 1-7, together with revisions to site layout to provide additional crossing points and the provision of private open space for the creche.

7.7.5. Appendix G of the response contains details in relation to the issues raised by the Environment Section in their request for Further Information. The response includes revised information relating to waste management.

I have examined all the information submitted and consider that it responds to the issues raised in the internal reports and the report from Uisce Eireann in a satisfactory manner.

Ecological Matters

7.7.6. The report from the Department of Housing, Local Government and Heritage notes that an Ecological Impact Assessment has not been completed for the proposed development in accordance with Objective BI 01 of the Kildare County Development Plan to ensure that all potential impacts on the local biodiversity are considered and that mitigation is proposed.

7.7.7. Items to be addressed are birds, badgers, bats, otter, and impact on NHA's including Ballynafagh Bog pNHA, Ballynafagh Lake pNHA, the Grand Canal pNHA and Hodgestown Bog NHA, all within 3km of the site.

7.7.8. I note that an Ecology Report was submitted by the applicant with the previous application but no report has been submitted with the current application. Having regard to the proximity of the site to the River Slate and to Natura 2000 sites and pNHA's as outlined above, I consider that if the Board is minded to seek Further

Information, such a report should be sought to evaluate all biodiversity and ecology in the area.

7.8. Appropriate Assessment

- 7.8.1. See Appendix 2 attached to this report.
- 7.8.2. The proposed development has been considered in light of the assessment requirements of Sections [177U and 177V] of the Planning and Development Act, 2000, as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Ballynafagh Bog SAC and Ballynafagh Lake SAC. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these site in light of its conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects could adversely affect the integrity of Ballynafagh Bog SAC and Ballynafagh Lake SAC in view of the Conservation Objectives of these sites.
- 7.8.3. On the basis of inadequate information provided within the application including the absence of a hydrological risk assessment, and an assessment of the impacts on groundwater within the Kildare Groundwater body and the incorrect exclusion of Ballynafagh Lake SAC from Stage 2 Screening, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant impact on European Sites Ballynafagh Bog SAC and Ballynafagh Lake SAC in view of the sites Conservation Objectives. In the circumstances, the Board is precluded from granting permission.

8.0 Recommendation

- 8.1. I recommend that permission for the proposed development be refused for the reason outlined below

9.0 Reasons and Considerations

On the basis of inadequate information provided within the application including the absence of a hydrological risk assessment, and an assessment of the impacts on groundwater within the Kildare Groundwater body and the incorrect exclusion of Ballynafagh Lake SAC from Stage 2 Screening, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant impact on European Sites Ballynafagh Bog SAC and Ballynafagh Lake SAC in view of the sites Conservation Objectives. In the circumstances, the Board is precluded from granting permission.

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.

Emer Doyle
Planning Inspector

20th May 2025

Form 1 - EIA Pre-Screening

Case Reference	321717-25
Proposed Development Summary	Residential development consisting of a total of 93 units together with creche.
Development Address	Prosperous, Co. Kildare.
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p>	<p>10(b)(i) Construction of more than 500 dwelling units</p>

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

Inspector: _____ **Date:** _____

Form 2 - EIA Preliminary Examination

Case Reference	321717-25
Proposed Development Summary	Residential development consisting of a total of 93 units together with creche.
Development Address	
	In all cases check box /or leave blank
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The development would conform to the built up nature of the town location. Prosperous is designated as a town in the Core Strategy for Kildare. See Appendix 2 for information on European Sites. It is considered that insufficient information has been provided by the applicant in relation to impacts on same. An Archaeological Heritage Assessment was submitted with the application which concluded that the development would not result in any negative impacts with respect to Archaeological Heritage.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the urban location of the site and the nature and scale of the development proposed there is no potential for significant effects on the environment. There is potential for temporary impacts during the construction phase such as noise, vibration, dust, air quality and traffic. However these impacts would be short term and can be appropriately managed and mitigated by way of conditions and the implementation of a detailed Construction Environmental Management Plan.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

Appendix 2

Screening for Appropriate Assessment

Test for likely significant effects

Brief description of project	A description of the project is set out in Section 2 of my report. The proposed development comprises the construction of 93 no. residential units and a creche. The site is serviced by public water and foul drainage networks.
Brief description of development site characteristics and potential impact mechanisms	The northern boundary of the site adjoins the River Slate which also borders Ballynafagh Bog SAC c. 180m downstream. The River Slate discharges into Ballynafagh Lake SAC. c. 2.7 km downstream.
Screening report	Y
Natura Impact Statement	Y
Relevant submissions	DoEHLG: <ul style="list-style-type: none">• In relation to Ballynafagh Bog SAC, the Natura Impact Statement rules out impacts on same. The Department is concerned that a hydrogeological risk assessment has not been carried out, and that groundwater impacts on the SAC and its habitats have not been fully assessed.• In relation to Ballynafagh Lake SAC, the AA Screening submitted with the application rules out impacts and states that there is no hydrological link. This is incorrect as there is a hydrological connection between the proposed development and Ballynafagh Lake SAC, and subsequently is a pathway for significant adverse effects on this designated site.

- Consideration must be given to the hydrogeological connectivity between the proposed development site and Natura sites. Any adverse impacts on groundwater could negatively affect the Site Specific Conservation Objectives for Natura 2000 sites. The maintenance of a high water table is essential to sustain raised bog and fan habitats and species. Ballynafagh Bog SAC has Annex 1 raised bog habitats and Ballynafagh Lake SAC has Annex 1 alkaline fen habitat, all of which are dependent on high water tables. Ballynafagh Lake SAC is also designated for two groundwater dependent habitats/ species- Alkaline fens and Desmoulins Whorl Snail.
- The proposed development is also located within the same groundwater body as Ballynafagh Lake SAC, i.e the Kildare GWB, which has not been acknowledged in the NIS. Annex II Vertigo species rely on stable and specific groundwater conditions and are vulnerable to changes in surface and groundwater quality which may impact the habitats they rely on.
- A reduction in air quality may occur during construction works. This includes a reduction in photosynthesis due to smothering from dust on plants and chemical changes such as acidity to soils. Further information should be sought in relation to this potential impact.
- Marsh fritillary butterfly is a QI Species for Ballynafagh Lake SAC. Whilst it is acknowledged that the habitats within this site are unlikely to be suitable for this species, ex situ habitat should also be considered when assessing potential impacts.
- The report does not address potential hydrological and hydrogeological impacts on the Qualifying Interest habitats and species. The Department recommends that Further Information is provided on this to ensure that all

		potential impacts on Annex 1 habitats and Annex II species are assessed.		
Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date) All sites viewed 20/05/25	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Ballynafagh Bog SAC 000391	ConservationObjective s.rdl	c. 180m	Yes- River Slate borders SAC c. 180m downstream.	Yes
Ballynafagh Lake SAC 001387	C0001387.pdf	c. 1.8km west	Yes- River Slate discharges to Ballynafagh Lake.	Yes
Mouds Bog SAC 002331	ConservationObjective s.rdl	c. 8km south	No	No
Pollardstown Fen SAC 000396	C0000396.pdf	c. 11.8km south	No	No
Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites				
The proposed development is not directly connected with or necessary to the management of any European sites. Indirect effects on Ballynafagh Bog SAC and Ballynafagh Lake SAC are as follows:				

<p>Site name Qualifying interests</p> <p>Possibility of significant effects (alone) in view of the conservation objectives of the site*</p>		
	Impacts	Effects
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]	<p>Direct: None.</p> <p>Indirect:</p> <p>Potential for surface water run-off from the site during construction.</p> <p>Localised changes in groundwater flow entering the SAC and on lands adjoining the SAC</p> <p>Dust related effected during the construction stage</p>	<p>Negative event on appropriate natural hydrological regimes necessary to support the natural structure and functioning of QIs habitats.</p> <p>Negative impact on water quality and QIs.</p> <p>Negative impact on QIs and supporting habitat and changes in soil acidity.</p>
		Likelihood of significant effects from proposed development (alone): Y
		If No, is there likelihood of significant effects occurring in combination with other plans or projects?
		Possibility of significant effects (alone) in view of the conservation objectives of the site*

	Impacts	Effects
Site 2: Ballynafagh Lake SAC (001387) Alkaline fens [7230] Vertigo moulensisana (Desmoulin's Whorl Snail) [1016] Euphydryas aurinia (Marsh Fritillary) [1065]	Direct: None. Indirect: Potential for surface water run-off from the site during construction. Localised changes in groundwater flow entering the SAC and on lands adjoining the SAC Reduction in air quality during construction	Negative effect on appropriate natural hydrological regimes necessary to support the natural structure and functioning of the fen habitat and QIs of the SAC. Negative impact on water quality and QIs and supporting habitat. Negative impact on QIs and supporting habitat and changes in soil acidity.
	Likelihood of significant effects from proposed development (alone): Y	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
Conclude if the proposed development could result in likely significant effects on a European site		
In the absence of mitigation, the proposed development has the potential to result in negative impacts on Ballynafagh Lake SAC and Ballynafagh Bog SAC. I consider that such impacts could be significant in terms of the stated conservation objectives. The proposed development was considered in light of the requirements of Section 177U of the accordance with Section 177U of the Planning and Development Act 2000 (as amended) and I conclude that the proposed development could result in significant effects on Ballynafagh Bog SAC and Ballynafagh Lake SAC in view of its conservation objectives on a number of qualifying interest features of these sites.		

It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

Appropriate Assessment – Stage 2

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an Appropriate Assessment of the implications of the proposed development in view of the relevant conservation objectives of Ballynafagh Bog SAC and Ballynafagh Lake SAC, based on scientific information provided by the applicant and considering the submission by the Department of Housing, Local Government and Heritage.

The information relied upon includes the following:

- Stage 1 Screening for Appropriate Assessment
- Natura Impact Statement submitted with the application
- Further details contained within an appeal submission made by the Development Applications Unit.
- Preliminary Construction and Environment Management Plan

Submissions/observations

DHLGH

- In relation to Ballynafagh Bog SAC, the Natura Impact Statement rules out impacts on same. The Department is concerned that a hydrogeological risk assessment has not been carried out, and that groundwater impacts on the SAC and its habitats have not been fully assessed.
- In relation to Ballynafagh Lake SAC, the AA Screening submitted with the application rules out impacts and states that there is no hydrological link. This is incorrect as there is a hydrological connection between the proposed development and Ballynafagh Lake SAC, and subsequently is a pathway for significant adverse effects on this designated site.
- Consideration must be given to the hydrogeological connectivity between the proposed development site and Natura sites. Any adverse impacts on groundwater could negatively affect the Site Specific Conservation Objectives for Natura 2000 sites. The maintenance of a high water table is essential to sustain raised bog and fen habitats and species.

Ballynafagh Bog SAC has Annex 1 raised bog habitats and Ballynafagh Lake SAC has Annex 1 alkaline fen habitat, all of which are dependent on high water tables. Ballynafagh Lake SAC is also designated for two groundwater dependent habitats/ species- Alkaline fens and Desmoulins Whorl Snail. The proposed development is also located within the same groundwater body as Ballynafagh Lake SAC, i.e. the Kildare GWB, which has not been acknowledged in the NIS. Annex II Vertigo species rely on stable and specific groundwater conditions and are vulnerable to changes in surface and groundwater quality which may impact the habitats they rely on.

- A reduction in air quality may occur during construction works. This includes a reduction in photosynthesis due to smothering from dust on plants and chemical changes such as acidity to soils. Further information should be sought in relation to this potential impact.
- Marsh fritillary butterfly is a QI Species for Ballynafagh Lake SAC. Whilst it is acknowledged that the habitats within this site are unlikely to be suitable for this species, ex situ habitat should also be considered when assessing potential impacts.
- The report does not address potential hydrological and hydrogeological impacts on the Qualifying Interest habitats and species. The Department recommends that Further Information is provided on this to ensure that all potential impacts on Annex 1 habitats and Annex II species are assessed.

European site: Ballynafagh Bog SAC 000391

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (as relevant- summary)	Potential adverse effects	Mitigation measures NIS DETAILS THAT NO MITIGATION MEASURES ARE REQUIRED
7110 <i>Active raised bogs</i>	To restore the favourable conservation condition of Active raised bogs in Ballynafagh Bog SAC, which is defined by the following list of attributes and targets	Localised changes in groundwater flow entering the SAC and changes to	The NIS details that none are required.

	<u>ConservationObjectives.rdl</u>	hydrological regime.	
7120 <i>Degraded raised bog still capable of natural regeneration</i>	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	Localised changes in groundwater flow entering the SAC and changes to hydrological regime.	The NIS details that none are required.
7150 <i>Depressions on peat substrates of the Rhynchosporion</i>	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	Localised changes in groundwater flow entering the SAC and changes to hydrological regime.	The NIS details that none are required.
European Site Ballynafagh Lake SAC (001387)			
Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (as relevant-summary)	Potential adverse effects	Mitigation measures- This site was not included by the applicant in Stage 2.

			However, I have noted below that some mitigation measures have been included in the Preliminary Construction and Environmental Management Plan.
7230 <i>Alkaline fens</i>	To restore the favourable conservation condition of Alkaline fens in Ballynafagh Lake SAC, which is defined by the following list of attributes and targets: <u>CO001387.pdf</u>	Fen habitats are dependent on the maintenance of a high water table. Any changes in water table or water quality would undermine conservation objective of SAC.	
1016 <i>Desmoulin's Whorl Snail</i>	To maintain the favourable conservation condition of Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>) in Ballynafagh Lake	Potential for localised changes in soil wetness	

<i>Vertigo mouliniana</i>	SAC, which is defined by the following list of attributes and targets: CO001387.pdf	in areas of supporting Whorl Snail habitat and/ or changes in water quality would undermine conservation objectives.	
1065 Marsh Fritillary <i>Euphydryas aurinia</i>	To maintain the favourable conservation condition of Marsh Fritillary (<i>Euphydryas aurinia</i>) in Ballynafagh Lake SAC, which is defined by the following list of attributes and targets: CO001387.pdf	Potential for localised changes in water quality.	

Assessment

I have undertaken a site visit and examined the documentation received, including NIS and submissions received in respect of the proposed project works. I note at the outset that no construction works, or operation activity will be undertaken on lands located within the boundary of either Ballynafagh Bog or Ballynafagh Lake.

Potential for Hydrological Impact(s)

The NIS submitted by the applicant was carried out based on fieldwork dating to 2021. At the outset, I am concerned that this information may be out of date.

In relation to Ballynafagh Lake, the NIS states that 'the direction of the flow of water is from the high bog where the three qualifying interests of the SAC are located, through the cutover bog

and infiltrating to groundwater or discharging into the River Slate. For this reason, any release of pollutants to the stream from the proposed development will not have any interaction with any of the raised bog habitats and therefore there is no potential for any adverse effect. There is no information on file in relation to a hydrogeological risk assessment to determine this and the Department considers that groundwater impacts on the SAC and its habitats have not been fully assessed.

There is a hydrological connection between Ballynafagh Lake SAC and the site as the River Slate discharges into the lake c. 2.7km downstream. As such, this site should have been included in the Stage 2 Screening as there is a hydrological pathway and potential for significant adverse effects on this designated site.

I note from the Department submission that the maintenance of a high water table is essential to sustain the raised bog and fen habitats associated with these two sites. For the active raised bog, water levels need to be near or above the surface of the bog lawns for most of the year. Fen habitats require high groundwater levels for most of the year. Fen groundwater levels are controlled by regional groundwater levels in the contributing catchment area.

Desmoulin's Whorl Snail and Alkaline fens in Ballynafagh Lake SAC are located in the same groundwater as the site which has not been stated in the NIS (the Kildare GWB). These habitat/species are vulnerable to changes in surface and ground water quality.

There may be in-combination effects in terms of the recently granted permission for 34 dwellings to the east, but this is not included as the NIS states that 'as this project will have no adverse effect on Ballynafagh Bog, there is no possibility of it contributing to in combination effects. (Section 13) As such, I am not satisfied that in-combination effects have been assessed adequately in the NIS.

No details on mitigation measures have been provided in the NIS as Section 14 considers that no protective measures are required due to a lack of pathway.

Section 2.5 of the Preliminary Construction and Environmental Management plan states that 'we believe there will be no significant adverse effects on Natura 2000 sites ...including the qualifying interests and integrity of Ballynafagh Bog SAC.'

I do note however, that the plan contains a number of general measures in relation to protection of water quality, measures to manage potential impacts to hydrology, hydrocarbon interceptor. Cordon off of drainage ditches etc.

Appropriate Assessment Conclusion

The proposed development has been considered in light of the assessment requirements of Sections [177U and 177V] of the Planning and Development Act, 2000, as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Ballynafagh Bog SAC and Ballynafagh Lake SAC. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these site in light of its conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects could adversely affect the integrity of Ballynafagh Bog SAC and Ballynafagh Lake SAC in view of the Conservation Objectives of these sites.

On the basis of inadequate information provided within the application including the absence of a hydrological risk assessment, and an assessment of the impacts on groundwater within the Kildare Groundwater body and the incorrect exclusion of Ballynafagh Lake SAC from Stage 2 Screening, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant impact on European Sites Ballynafagh Bog SAC and Ballynafagh Lake SAC in view of the sites Conservation Objectives. In the circumstances, the Board is precluded from granting permission.