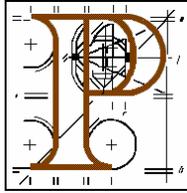


An Bord Pleanála



Inspector's Report

Development: Construction of 49 no. houses, 16 no. apartments and all associated site works at Downings North, Prosperous, Co. Kildare

Planning Application

Planning Authority: Kildare County Council
Planning Authority Reg. Ref.: 09/835
Applicant: Joseph Conway
Type of Application: Permission
Planning Authority Decision: Refuse

Planning Appeal

Appellant(s): Joseph Conway
Type of Appeal: 1st Party
Observers: Maura and Des O'Doherty
Date of Site Inspection: February 09th 2010

Inspector: Lorraine Dockery

1.0 SITE LOCATION AND DESCRIPTION

The subject site, which has a stated area of 2.92 hectares is located within the townland of Downings North, to the south-west of Prosperous, Co. Kildare. It is currently under grass and is considered to display poor drainage characteristics with reeds and rushes evident. The site is relatively flat throughout but does rise by approximately 2 metres from the eastern boundary to the north-western boundary where the ringfort is located. The site is bound to the north and east by residential developments and to the south and west by public roadways. The existing site entrance is to the west of the site onto the Prosperous-Robertstown road. ESB lines traverse the site. The south-eastern boundary is defined by a block wall while the remaining boundaries are defined by native hedgerow.

A recorded monument is located to the southwest of the site, a ringfort.

2.0 PROPOSED DEVELOPMENT

The development as proposed in the public notices comprises 65 dwellings consisting of

- 44 no. house Type A- three bed, terraced, two storey in 10 blocks,
- 4 no. house Type B-three-bed, semi-detached bungalows,
- 1 no. House Type C- four-bed, detached two-storey
- 16 no. apartment Type D- two-bed units in one two-storey block

and all associated site development works.

The density of development is approximately 22.2 units/hectare and the proposed development ranges in height from single storey to two-storey, with one unit (No. 29) have accommodation at attic level (two and a half storey).

The proposed two-bed apartment units (Type D) have a stated floor area of 89.46 square metres.

Proposed vehicular access is onto the Prosperous-Robertstown roadway. The main area of public open space is located to the south-west of the site, around the area of the existing ringfort. A bicycle park is located in the far south-eastern portion of the site. Much of the existing hedgerow is to be removed and replaced with two-metre high walls with the exception of along the north-western roadside boundary which is to be comprised of a 0.6metres high wall with 1.2m high railing over.

Proposed water supply is by a new connection to the public mains while proposed wastewater treatment is by a proposed pump station. Proposed surface water disposal is into the public sewer.

The proposal includes for an 'Archaeological and Visual Impact Assessment' prepared by The Archaeological Company, together with 'Calculations of Foul Water and Surface Water Drainage', prepared by Mark O'Reilly & Associates.

The submitted 'Archaeological and Visual Impact Assessment' states that the proposed development is located in close proximity to a Recorded Monument

KD013:010-01, classified as a ringfort/rath/cashel and KD013:010-02 an associated annex. No extant or visible surface archaeological remains were recorded during field walking and the development will not have a direct physical impact on the recorded monument. It is recommended that a programme of test trenching be carried out in advance of any construction in order to quantify any archaeological remains.

3.0 PLANNING AUTHORITY'S DECISION

Planning permission was refused for 4 no. reasons, which were as follows:

1. Development of the kind proposed on the land would be premature by reference to the existing deficiency in the provision of sewerage facilities. The proposed development is premature pending the construction and commissioning of the proposed foul sewer network from the site boundary to Osberstown waste water treatment plant as outlined in the Upper Liffey Valley sewerage catchment report and the proposed development as currently proposed, therefore would be prejudicial to public health and contrary to the proper planning and sustainable development of the area
2. The Osberstown Waste Water Treatment Plant has no capacity to cater for flows generated from the proposed development. Osberstown Waste Water Treatment Plant is upstream of Leixlip water treatment works where sewage overflows could cause serious health problems. Osberstown Waste Water Treatment Plant has exceeded its capacity both hydraulically and biologically and the proposed development therefore if permitted would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area
3. The proposed development, by virtue of the encroachment of a section of the proposed residential development onto an area zoned for open space and amenity would materially contravene 'zoning objective e- open space and amenity' indicated in the Prosperous Local Area Plan 2007 and would also materially contravene section 5.12 h20 of the County Development Plan 2005-2011 which provides for "to prohibit the development of areas zoned open space amenity of areas which have been indicated in a previous planning application as being open space".
4. The layout, density, lack of public open space and lack of residential mix of the proposed development would be contrary to the provisions of section 7.5.7 of the Prosperous Local Area Plan 2007 and would contravene the provisions of section 15.3.2 (housing layout), section 15.3.6 (residential density), section 15.3.7 residential mix in house and apartment development) and section 15.3.11 (public open space for residential development) of the Kildare County Development Plan 2005-2011. The proposed development would therefore be contrary to the provisions of the Kildare County Development Plan 2005 and would be contrary to the proposed planning and sustainable development of the area.

4.0 TECHNICAL REPORTS

Planners Report

The proposed development has not been amended to any significant level from the previous refusal to warrant a refusal of that decision. Accordingly it is considered appropriate to refuse planning permission for the same reasons as cited under the previous refusal.

Transportation Department

Additional information requested

Clane Area Engineer

Conditions attached

Water Services Department

Refusal recommended for the following reasons:

The proposed development is premature pending the construction and commissioning of the proposed foul sewer network from the site boundary to Osberstown waste water treatment plant. Recommended by MC O'Sullivan as part of the upper Liffey Valley regional sewerage scheme for Naas catchment Osberstown WWTP has no capacity to cater for flows generated from the proposed development. Proposed development is premature pending the upgrading of the Osberstown WWTP

Environment Section

Refusal recommended for the following reason:

The development is premature pending the upgrade of Osberstown WWTP, which at present is at full capacity

Architectural Conservation Officer

Further information requested in relation to the provision of a conservation and visual impact report; architectural landscape report if necessary and a justification requested as to the design merits of the proposed development due to its proximity to an archaeological monument.

Building And Development Control Section

Additional information requested in relation to land ownership; location of foul sewer and issues in relation to management companies.

Housing Construction Section

Conditions attached

The following observations were received by the planning authority

Department Of Environment, Heritage And Local Government

It is noted that the proposed development site contains recorded monument KD013-10 (a ringfort and annexe) which is subject to statutory protection in the record of monuments and places, established under section 12 of the National Monuments (Amendment) Act 1994.

Therefore it is our recommendation that an archaeological impact assessment to include a geophysical survey as a technique to elucidate archaeological test excavation be undertaken over the entire development site in order to provide an adequate and fully informed assessment.

It is noted that ground disturbance is proposed in the immediate vicinity of the recorded monument KD013-010. In order to ensure the continues protection and amenity of the recorded monument and to minimise the likelihood of encountering archaeological material associated with the monument, no groundworks for construction or landscaping shall take place within 20 metres of the external perimeter of the monument as determined by a consultant archaeologist. This area shall be out of bounds to all machinery and storage of materials and no activity associated with construction works should be carried out there.

A revised site layout plan clearly indicating the proposed exclusion/buffer area should be submitted as further information. The archaeological impact assessment shall be based on the revised layout. The results of the above will enable the planning authority and this office to formulate an informed archaeological recommendation before a planning decision is taken.

Eastern Regional Fisheries Board

In the general context of the unprecedented growth in development in the upper Liffey valley sewerage scheme catchment (and bearing in mind the past deterioration in water and habitat quality downstream of Osberstown WWTP when it was overloaded and the recent deterioration in biological quality recorded by the EPA at Castlekeely ford), the Board must adopt a precautionary approach in order that the river Liffey (as the final receiving water) is protected. It should also be highlighted again that Osberstown WWTP discharges effluent into the river Liffey upstream of the abstraction point for potable water at Leixlip.

In light of the existing deficiency within the system, the projected load in already granted permissions of 20,000 p.e. in excess of the design capacity at the plant and the intermittent discharge of poorly treated effluent from the Osberstown WWTP to the river Liffey, we believe this development to be premature.

In the absence both of a firm date for commencement of the upgrade scheme and a projected duration for the build it is considered unreasonable and premature to accept a scenario based on project phasing prior to the upgrade. The ERFB could however accept a scenario where permission is based on a condition that occupancy will be dependent on the full commissioning of the upgraded plant i.e only when additional capacity is available and projected effluent loads could be treated to an acceptable level at the Osberstown WWTP with no threat of a deterioration in biological quality in the receiving water.

5.0 APPEAL GROUNDS

The grounds of appeal may be summarised as follows:

- The Council's failure to consider whether the issue of lack of capacity of the Osberstown Wastewater Treatment Plant could be addressed by a Grampian condition, as is currently common practice of both the Council and ABP. Cites precedents of cases where such condition were applied and state that these cases were all affected by identical sewage limitations and will avail of increased capacity in 2011 when the on-going upgrade comes on-stream. They contend that it would be reasonable and equitable for the Board to decide the current case in precisely the same manner
- As just four out of sixty-five units breach the notional zoning line, with over 24% of the site remaining for amenity use, the appellants contend that such a minor encroachment onto open space zoned land does not justify a refusal of permission. This is especially the case given the various statements promoting flexibility in zoning interpretation and given that the offending apartment block is aligned to create a sense of enclosure on the site. This minor encroachment is desirable but could be omitted by condition by the Bord, if deemed necessary
- With regards to the location of the entrance, it is located along the only road that can accommodate an access and at a point dictated the Council engineers on the basis of road safety
- With regards to open space provision, 24% of the land will comprise open space, occupying the same position as previously granted. The appellants contend that the distinction between amenity zoned as opposed to residential zoned land is artificial and cites previous Bord decisions which uphold this opinion. In these cases, the Bord deemed that amenity zoned land could be considered in assessing the adequacy of open space proposed in new housing schemes
- With regards to density of development, the site specific brief in the statutory LAP explicitly prescribes a density of 20-30 dwellings/ha for the subject site
- The criticism that the layout fails to provide pedestrian links between this scheme and neighbouring estates ignores physical parameters. The only possibility of a pedestrian connection is with Killybegs Manor and this

opportunity is now being explored to provide a walkway through. There are no other opportunities for pedestrian linkages with adjacent schemes.

6.0 OBSERVERS

The submitted observation may be summarised as follows:

- Not opposed to development of the site but wishes it to integrate with existing developments in vicinity
- Excessive density of development
- Layout and design not a feature of and out of character with Prosperous village
- Issues of overlooking, overshadowing and loss of light
- Impacts on outlook and privacy which will adversely affect property prices
- Boundary/ownership issues
- Retention of existing hedgerow
- Proposal will exacerbate existing drainage problems in vicinity
- Queries regarding proposed pump station
- Issues of enforcement relating to Killybegs Manor development

7.0 RESPONSES

A response was received from the planning authority which contained no new issues.

No further responses were received

8.0 PLANNING HISTORY

- 05/529 Permission REFUSED for 46 dwellings on this site. Decision UPHeld by An Bord Pleanala on appeal (PL09.216253). The reasons for refusal related to the fact that the development was considered premature pending the upgrade of the Osberstown WWTP and also because the development was on unzoned lands.
- 07/1653 Permission REFUSED for 42 dwellings on this site. The reasons for refusal related to the fact that the development was considered premature pending the upgrade of the Osberstown WWTP and also that the proposed development would materially contravene conditions of previous grants of permission on the site
- 08/1967 Permission REFUSED for 73 dwellings on this site. The reasons for refusal related to the fact that the development was considered premature pending the upgrade of the Osberstown WWTP; encroachment in an area of the site zoned open space; lack of public open space and lack of residential mix

9.0 DEVELOPMENT PLAN

The site lies within the functional area of Kildare County Council. It is thus affected by the provisions of the Kildare County Development Plan, 2005-2011.

The Prosperous Local Area Plan 2007 applies for the area.

Zoning:

The site is divided into two zonings. The south-western portion of the site is zoned 'Objective E- Open Space and Amenity' while the northern portion of the site is zoned 'Objective D- New Residential'.

'Objective D- New Residential' provides for new residential development and associated local shopping and other services incidental to residential development.

'Objective E' aims to 'protect and provide for recreation, open space and amenity provision and to protect, improve and maintain public open space; to preserve private open space and to provide recreational and community facilities. The Council will not normally permit development that would result in a loss of open space within the town except where specifically provided for in the Development Plan'

The site is partially designated 'Site 12' under Section 7.5.7 and this section sets out various site development standards

4.14 Utilities Infrastructure Policies

It is a policy of Kildare County Council to:

1. Separate the disposal of foul and surface water through the provision of separate sewerage networks.
2. Continue to ensure the implementation of the Waste Management Plan for County Kildare 2005-2010.
3. Ensure that all proposed development takes place on a phased basis and is subject to the provision of adequate surface water drainage and sewage facilities.

Objective WW1

Ensure that the existing foul sewer network from Prosperous to Osberstown Waste Water Treatment Plant and including Osberstown WWTP is upgraded in accordance with the Upper Liffey Valley Sewerage Report commissioned in 2002 and the Greater Dublin Strategic Report for this catchment.

Archaeological Heritage

B13-06 Ringfort Downings North

*Department of the Environment, Heritage and Local Government (2007)
Sustainable Urban Housing: Design Standards for New Apartments*

In summary, the following standards apply for two-bed units:

- Minimum overall apartment floor areas - 73 square metres
- Minimum storage space requirements - 6 square metres
- Minimum floor areas for main apartment balconies - 7 square metres

Chapter 3 deals with storage areas and communal facilities

Chapter 4 deals with Communal and Private Open Spaces

Strategic Planning Guidelines for the Greater Dublin Area

Prosperous is located within the Mid-East Region and was identified in the as being within the Dublin Metropolitan Area.

10.0 ASSESSMENT

This is considered to be a repeat application on the subject site. Having examined the file and having visited the site I consider that the main issues in this case relate to:

- Principle of proposal
- Drainage issues
- Design and layout of proposed scheme
- Archaeological issues
- Other issues

10.1 Principle of proposal and compliance with zoning objective

As is stated above, the site lies within the functional area of Kildare County Council and the Prosperous Local Area Plan applies for the area. The site has two zonings, the south-western portion of the site is zoned 'Objective E- Open Space and Amenity' while the northern portion of the site is zoned 'Objective D- New Residential'. The bulk of the residential element of the scheme is located within the area designated as 'Objective D', which aims to provide for new residential development and associated local shopping and other services incidental to residential development. The proposed residential use is considered acceptable within such zones and therefore I consider this element of the proposal acceptable in terms of overall land use policy.

The south-western portion of the site is zoned 'Objective E' which seeks 'To protect and provide for recreation, open space and amenity provision'. This zoning objective aims to protect and provide for recreation, open space and amenity; to protect and maintain public open space; to preserve private open space and to provide recreational facilities. The Plan continues by stating that the Council will not normally permit development that would result in the loss of open space within the Plan Area. The proposed development includes for the provision of four no. residential units, together

with the vehicular entrance to the site within this area designated for open space provision. I concur with the opinion expressed by the planning authority and consider this unacceptable. Provision of such units on lands designated as such would if permitted set an undesirable precedent for further similar developments in the vicinity and would in turn lead to the gradual eroding of valuable open space areas. I do not concur with the opinion expressed by the appellant that this is the only viable location of the proposed site entrance. I consider that a redesign of the entire scheme could be such so as to relocate the proposed vehicular entrance in a northerly direction, so as to include it within the residential zoning of the site. With regards to the four no. residential units, if the Bord is disposed towards a grant of permission, I recommend that these four units be omitted.

The planning authority in their reason for refusal state that the proposal materially contravenes the zoning objective for the site by virtue of encroachment onto the an area zoned for open space, together with Section 5.12 H20 of the County Development Plan which provides for 'to prohibit the development of areas zoned open space amenity of areas which have been indicated in a previous planning application as open space'. Under the Planning and Development Act 2000, the Bord is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are in the national, strategic interest; conflict with national/regional policy; ambitious policy within the development plan and the pattern of permissions in the vicinity since the adoption of the development plan.

I consider that the proposed development of 65 residential units is not of national or strategic interest. I consider that the subject policies of the Plan do not conflict with national or regional policy and consider that such policies are in accordance with good planning practice. I also consider that the policies in the operative development plan are clear and concise as set out in the current Kildare County Development Plan 2005-2011 and the Prosperous Local Area Plan 2007. The County Development Plan is relatively recent and was adopted in 2005 while the LAP was adopted in 2007 and there have been no pattern of developments for reference in the area since its adoption.

I would therefore conclude that none of the exceptions set out in Section 37(2)(b) of the Act apply such that a permission might be granted in this case. I consider that the proposed development by virtue of encroachment of a section of the proposed residential development and vehicular access onto an area zoned for open space and amenity would materially contravene 'Zoning Objective E-Open Space and Amenity', as indicated in the Prosperous Local Area Plan 2007 and is therefore inconsistent with the proper planning and sustainable development of the area.

10.2 Drainage Issues

The first and second reasons for refusal relate to deficiencies in the provision of sewerage facilities and this is considered to be one of the major components of the appeal submission. I note the reports of the Water Services and Environment Sections of the planning authority, both of whom recommend refusal for the proposed development. I also note the report of the Eastern Regional Fisheries Board which advises that the ABP must adopt a precautionary approach in order that the river Liffey (as the final receiving water) is protected. They also state that it should be highlighted again that Osberstown WWTP discharges effluent into the River Liffey upstream of the abstraction point for potable water at Leixlip. Their recommendations conclude that in light of the existing deficiency within the system, the projected load in already granted permissions of 20,000 p.e. in excess of the design capacity at the plant and the intermittent discharge of poorly treated effluent from the Osberstown WWTP to the River Liffey, the ERFB believe this development to be premature.

I note the argument put forward by the appellant and concur that Grampian type conditions were sometimes previously attached to applications where similar issues in relation to drainage arose. However, in my opinion there is a certain degree of uncertainty concerning the timing and costs of the works listed in the internal reports of the planning authority and it is not clear from the Water Services Investment Programme Assessment of Needs 2007-2014, if these works are included and what the timeframe of any such works is. The Planning Authority has again not provided any insight into this. The Board could seek clarification in this matter and I consider that this would be necessary if they are so minded to attach such a Grampian type condition. Based on the information before me, I am also inclined to take a precautionary position and consider that development of the kind proposed on the land would be premature by reference to the existing deficiency in the provision of sewerage facilities. The proposed development is premature pending the construction and commissioning of the proposed foul sewer network from the site boundary to Osberstown Waste Water Treatment Plant as outlined in the Upper Liffey Valley sewerage catchment report and the proposed development as currently proposed, therefore would be prejudicial to public health and contrary to the proper planning and sustainable development of the area. In addition, it is my understanding that the Osberstown Waste Water Treatment Plant has no capacity to cater for flows generated from the proposed development. Osberstown Waste Water Treatment Plant is upstream of Leixlip water treatment works where sewage overflows could cause serious health problems. Osberstown Waste Water Treatment Plant has exceeded its capacity both hydraulically and biologically and the proposed development therefore if permitted would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

The observers have raised the issue of flooding and contend that the proposal if permitted could give rise to increased flooding in the area. I have no information before me to substantiate this claim.

10.3. Design and Layout of proposed scheme

Notwithstanding the issues raised in relation to drainage, this issue of design and layout is of serious concern to me. Contrary to the opinion of the planning authority, I do not have undue concerns that the area of public open space is centred around the ringfort, at the south-western portion of the site on amenity zoned lands. In this instance, I consider this the most appropriate place for such open space provision.

The density of the proposed development is approximately 22.2 units/hectare and in my opinion, this is considered acceptable. The Prosperous LAP states that a maximum density of 20-30 residential units per hectare is recommended for 'Site 12' but that density will ultimately be governed by location, site characteristics and design considerations. This thinking is considered reasonable and I consider the proposed density acceptable.

I do not have undue concerns in relation to the mix of units. A mix of housing types and sizes are proposed and this is considered acceptable.

I do however have serious reservations in relation to the layout of the proposed scheme and consider the layout to be of a poor quality that if permitted would lead to a visually unpleasing, low grade development. There is very little direct overlooking/supervision of the open space area and this is considered inappropriate. In addition, most of the proposed units are gabbling onto the access roads which would provide for an inadequate level of visual amenity within the proposed development. A separation distance of approximately 13.5 metres exists between Units 37 and 38, which have no direct overlooking of it with no details submitted in relation to the reasoning for this. If permitted as such, it could lead to the anti-social behaviour at this location. Within any such development, minimum design rationale requires that residential units front the internal/external roadways and that direct overlooking of public open space be provided for. In addition, the proposed bicycle stand is located in the far south-eastern portion of the site, far removed from most of the occupiers. Only one bin store is provided for the entire development, with no details of waste management for the terraced units or apartments. It is proposed to remove virtually all of the existing hedgerow that surrounds the perimeter of the site and inadequate details have been submitted in relation to landscaping of the proposed scheme. A 2 metre high wall is proposed onto the minor road to the south which would be completely inappropriate and detract significantly from the amenity of the area.

The Prosperous LAP states that with regards to 'Site 12' the layout of residential development should facilitate pedestrian connections to the surrounding established residential areas where possible. In this instance there are little or no pedestrian links to the surrounding established residential areas. The appellants state that they are considering providing such a link between proposed units 37 and 38 and while such a link would be desirable, no details have been submitted in this regard. The appellants continue that no further links are appropriate or achievable. I do not concur with this assertion and consideration a revised layout should provide pedestrian access onto the minor road to the south and also possibly a further pedestrian entrance onto the main Prosperous-Robertstown road.

In terms of internal layout of the proposed apartments, inadequate storage space is provided to all apartments, in order to comply with *Department of the Environment, Heritage and Local Government (2007) Sustainable Urban Housing: Design Standards for New Apartments*. Adequate private open space is proposed to all units to comply with Development Plan standards.

I note the concerns raised within the observation. However, I consider that there the impact on the amenity of adjoining properties would not be so great as to warrant a refusal of permission. I consider that the heights and separation distances are such that overlooking or overshadowing would not be excessive. While I acknowledge that there will be a change in outlook for many of the existing residents as they are currently looking onto a green field, I consider that the site is substantially zoned for development and is therefore acceptable in principle. I have no information before me to believe that the proposal would lead to impacts on privacy; loss of light or devaluation of property prices in the vicinity.

10.4 Archaeological Issues

As has been stated above, the proposed development site contains recorded monument KD013-10 (a ringfort and annexe) which is subject to statutory protection in the Record of Monuments and Places, established under Section 12 of the National Monuments (Amendment) Act 1994. As a point of note, the Prosperous LAP refers to a ringfort on Downings North (Ref. B13-06). It is unclear if this is the subject ringfort and if so, then the reference number in the LAP appears to be incorrect. Both the submitted 'Archaeological and Visual Impact Assessment' and the report from the Department Of Environment, Heritage And Local Government, together with the information contained on their website state that the Recorded Monument, has reference No. of KD013-10. This should hopefully clarify the situation.

It is acknowledged that an 'Archaeological and Visual Impact Assessment' has been submitted with the application. I note the report of the Department Of Environment, Heritage and Local Government which states that it is their recommendation that an archaeological impact assessment to include a geophysical survey as a technique to elucidate archaeological test excavation be undertaken over the entire development site in order to provide an adequate and fully informed assessment. In order to ensure the continued protection and amenity of the recorded monument and to minimise the likelihood of encountering archaeological material associated with the monument, no groundworks for construction or landscaping should take place within 20 metres of the external perimeter of the monument as determined by a consultant archaeologist.

Chapter 17 of the operative County Development Plan aims to ensure that development in the vicinity of a site of archaeological interest is not detrimental to the character of the archaeological site or its setting by reason of its location, scale, bulk or detailing (Policy AH5). It is noted that ground disturbance is proposed in the immediate vicinity of the recorded monument KD013-010 and based on the information before me, I am not satisfied that the proposed works would not lead to the disturbance of this recorded monument. The Prosperous LAP states that it is an objective of the Council to preserve the archaeological heritage and to safeguard the integrity of archaeological sites. The Council recognises the need to protect, manage and enhance the natural, architectural and archaeological heritage of Prosperous. The conservation of this heritage forms an important element of the long term sustainable development of the town.

Therefore, in the absence of adequate information within the Archaeological Impact Assessment and a favourable report from the Department of Environment, Heritage and Local Government it is considered that the proposed development may pose an unacceptable risk to damage to archaeological remains and would therefore be contrary to the proper planning and sustainable development of the area.

10.5 Other Issues

Issues raised by the observers in relation to enforcement are a matter for the planning authority, outside the remit of An Bord Pleanala.

Issues raised by the observers in relation to ownership and boundaries are civil matters, outside the remit of An Bord Pleanala.

11.0 Conclusion

There are a number of issues that are of concern within this proposed development. Based on the information contained within the file, I have concerns that the proposal would be premature by reference to an existing deficiency in the sewerage facilities and network in the area and the period within which such deficiency may reasonably be expected to cease. The proposed development, would therefore be prejudicial to public health. In addition, based on the information before me, it would appear that the Osberstown Waste Water Treatment Plant has no capacity to cater for flows generated from the proposed development. Osberstown Waste Water Treatment Plant is upstream of Leixlip water treatment works where sewage overflows could cause serious health problems. It is stated that this treatment plant has exceeded its capacity both hydraulically and biologically and the proposed development therefore if permitted would be prejudicial to public health.

Secondly, the proposal, by virtue of the encroachment of a section of the proposed residential development onto an area zoned for open space and amenity would, in my opinion materially contravene 'zoning objective e- open space and amenity' indicated in the Prosperous Local Area Plan 2007.

Thirdly, I have serious reservations in relation to the design and layout of the proposed development and the impact that it would have, if permitted on both the

residential and visual amenities of the area for existing residents of the area and for any future occupiers of the scheme.

Fourthly, the subject site is located in close proximity to a Recorded Monument KD013-10 Ringfort and Annex. It has not been established that the submitted Archaeological Assessment contains adequate and sufficiently detailed information and therefore the proposed development may pose an unacceptable risk of damage to archaeological remains in the vicinity.

Having regard to all of the above, I consider the proposed development as submitted unacceptable and if permitted would be contrary to the proper planning and sustainable development of the area.

Recommendation

In light of the above assessment, I recommend that permission be REFUSED, for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

1. Having regard to the submissions made in connection with the planning application and appeal, it is considered that the proposed development would be premature by reference to an existing deficiency in the sewerage facilities and network in the area and the period within which such deficiency may reasonably be expected to cease. The proposed development, would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
2. The Osberstown Waste Water Treatment Plant has no capacity to cater for flows generated from the proposed development. Osberstown Waste Water Treatment Plant is upstream of Leixlip water treatment works where sewage overflows could cause serious health problems. Osberstown Waste Water Treatment Plant has exceeded its capacity both hydraulically and biologically and the proposed development therefore if permitted would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area
3. The proposed development, by virtue of the encroachment of a section of the proposed residential development onto an area zoned for open space and amenity would materially contravene 'zoning objective e- open space and amenity' indicated in the Prosperous Local Area Plan 2007 and is therefore considered to be contrary to the proper planning and sustainable development of the area.
4. The proposed development, by virtue of its layout and design, is such that it would detract from the amenity, character and integrity of Prosperous village; would seriously injure the visual amenity of the area and would set an undesirable precedent for further similar developments in the vicinity. In addition, elements including inadequate storage space within the proposed apartment units, is such that it would

provide an inadequate level of amenity for any future occupiers of the proposed scheme. The proposed development would therefore be inconsistent with the proper planning and sustainable development of the area.

5. The subject site is located in close proximity to a Recorded Monument KD013-10 Ringfort and Annex. Policy AH5 of the operative County Development Plan 2005-2011 aims to safeguard the archaeological value of such sites and their setting. This is considered reasonable. It has not been established that the submitted Archaeological Assessment contains adequate and sufficiently detailed information and therefore the proposed development may pose an unacceptable risk of damage to archaeological remains in the vicinity. The proposed development would therefore be contrary and sustainable development of the area.

Lorraine Dockery
Planning Inspector

18th February 2010