



## Development

The construction of 42 houses as follows: 5 No. one and half storey detached dwellings; 30 No. two-storey semi-detached dwellings; 2 No. semi-detached bungalows, 1 No. detached bungalow; 4 No. apartments in a two-storey block, foul sewer pumping station, car-parking and all associated site works.

Revised by way of significant further information and clarification of further information to consist of: an amended site entrance, revised internal site layout, a reduction in the number of dwellings from 42 to 40 and revised house designs as follows: 5 no. one and a half storey detached dwellings, 24 no. two-storey semi-detached dwellings, 2 no. semi-detached bungalows, 1 no. detached bungalow, 4 no. maisonettes in a two-storey block, 4 no. apartments in a two-storey block.

**Location** Downings North, Prosperous, Co. Kildare

**Planning Authority** Kildare County Council

**Planning Authority Reg. Ref.** 19/48

**Applicant(s)** John Fadden

**Type of Application** Permission

**Planning Authority Decision** Grant Permission subject to Conditions.

**Type of Appeal** Third Party

**Appellant(s)** Joe Conway

**Observer(s)** None

**Date of Site Inspection** 7<sup>th</sup> May 2020

**Inspector** Paul O'Brien

## 1.0 Site Location and Description

- 1.1. The subject site contains a stated area of 2.765 hectares and is located to the south east of 'The Downings road' on the western side of Prosperous, Co. Kildare. The site is an irregular shape and has road frontage along The Downings and to the south onto the Back Road at 'Curryhills'. The site is generally flat and is under grass. Site boundaries consist of a mix of hedgerows and boundary walls associated with adjoining residential developments. An agricultural gate provides access to the northern side of the site. A number of low voltage powerlines lines cross the site.
- 1.2. To the east/ south east is Killybegs, an existing residential development of detached two storey houses. To the north of the site is the Barrington Court residential development which consists of detached single-storey houses. An agricultural building is located to the west of the site.
- 1.3. Prosperous is approximately 10 miles to the north west of the Kildare county town of Naas and is approximately 33 km to the west of Dublin City Centre. Prosperous is served by Go Ahead Ireland bus route 120 with an approximately half hourly daytime service, operating between Edenderry to the west and Dublin City Centre.

## 2.0 Proposed Development

- 2.1. The proposed residential development consists of the following:
  - The construction of 42 dwellings as follows:
    - 5 No. one and half storey detached houses;
    - 30 No. two-storey semi-detached houses;
    - 2 No. semi-detached bungalows, 1 No. detached bungalow;
    - 4 No. apartments in a two-storey block,
    - Foul sewer pumping station, car-parking and all associated site works.
  - Revised by significant further information consisting of; an amended site location entrance, revisions to the internal site layout, reduction in the number of dwellings from 42 to 41 and revised house designs.

- Further revised by clarification of further information consisting of:
  - Revisions to the internal site layout.
  - Reduction in the number of dwellings from 41 to 40 and revised house designs as follows:
    - 5 no. one and a half storey detached dwellings – Type A & AD
    - 24 no. two-storey semi-detached dwellings – Type B & BD
    - 2 no. semi-detached bungalows – Type C & CD
    - 1 no. detached bungalow – Type D
    - 4 no. maisonettes in a two-storey block – Type E, ED, F & FD
    - 4 no. apartments in a two-storey block – Type AP.

The proposed density is 14.5 units per hectare (40/2.765).

## 3.0 Planning Authority Decision

### 3.1. Decision

Following the receipt of further information/ clarification of further information, the Planning Authority decided to grant permission subject to conditions which are generally standard. Condition no. 2 confirms that a total of 40 units to be provided as per Drawing no. 18001-301G received by the PA on the 20<sup>th</sup> of November 2019; Condition no.3 requires that all flood mitigation measures be implemented by the developer, Condition no.4 requires the employment of an archaeologist and the provision of a buffer zone around a recorded monument, Condition no.5 requires an agreement on the provision of pedestrian link to the Killybegs Manor development, and Condition no. 12 requires agreement on the design/ provision of footpaths.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planning report reflects the decision to grant permission subject to conditions. Further information was sought in relation to a number of issues which included in summary; revisions to the layout which are to include the provision of a 20 m buffer

around recorded monuments and to provide a 10 m riparian corridor long a watercourse to the north east of the site. In addition, it was recommended/ requested that house nos. 5 and 12 be omitted for layout reasons, reconsider the need for tree removal, revisions to the layout to address issues of overlooking, further design/ layout issues, archaeological assessments, provision of an appropriate assessment screening report, foul and surface water drainage details, flood risk assessment details, Part V revisions, revised road and pedestrian details, provision of a taking in charge plan, additional storage for units 1 – 5, provision of a tree/ hedgerow survey and to comment on received submissions. On receipt of the further information response, the Planning Authority Case Officer sought clarification of further information in relation to revisions to the layout to address the provision of an unsupervised area of land to the rear of houses, further revisions to the Part V housing and revisions to the Type B housing.

### 3.2.2. **Other Technical Reports**

**Heritage Officer:** On the initial submitted application, an Archaeological Impact Assessment was requested by way of further information. On receipt of the significant further information response, no objection subject to the conditions recommended by the Department of Culture, Heritage and the Gaeltacht.

**Environmental Health Officer:** No objection subject to conditions.

**Building Control:** No objection subject to conditions.

**Water Services:** A significant amount of further information was requested in relation to surface water drainage, attenuation of surface water, provision of a revised flood risk assessment and details. On receipt of the significant further information response, no objection subject to conditions.

**Roads and Transportation Section:** Further information requested in relation to the proposed road layout, public lighting provision, upgrading of existing footpaths and details of the link to the existing Killybegs Manor housing development.

Following the receipt of further information, report noted that the submitted details were acceptable subject to conditions.

**Housing Section:** The proposed development is subject to the provision of Part V housing and request that a revised layout be submitted that indicates the pepper

potting of the location of these units which shall be in the form of a maisonette design. On receipt of the significant further information response, the Housing Section requested that the development be further modified to comply with their requirements.

**Chief Fire Officer:** No objection subject to conditions.

**Environment Section:** No objection subject to recommended conditions and on receipt of the significant further information response, no objection subject to conditions.

**Architectural Conservation Officer:** Further information requested in relation to the provision of an inventory of the adjacent vernacular farmhouse. On receipt of the significant further information response, no objection subject to conditions.

### 3.2.3. Prescribed Bodies Reports

**Irish Water (IW):** Further information requested in relation to foul drainage provision, capacity constraints were referenced in the request. On receipt of the significant further information response, Irish Water reported no objection, subject to condition.

**Inland Fisheries Ireland (IFI):** Note a number of concerns and deficiencies in the proposed development. Further information request identified.

**Department of Culture, Heritage and the Gaeltacht (DCHG):** The proposed development may impact negatively on recorded monuments and it is required that no development take place within 20 m of the external perimeters of such recorded monuments. The layout should be revised and full details of landscaping to be provided as this may impact on the recorded monuments.

The Department also noted that the development was in a location that could potentially impact on qualifying interests of Natura Sites at Ballynafagh Lake (SAC) and Ballynafagh Bog (SAC). Request that an Appropriate Assessment Screening be undertaken by way of a further information request.

### 3.2.4. Objections/ Observations

A significant number of objections to the proposed development were received including a petition from the Killybegs Manor Residents. Other received submissions were not opposed to the entirety of the development, just specific aspects.

In summary the comments included the following:

- The proposed pedestrian access to Killybegs Manor is poorly considered as the entrance could give rise to safety issues and risk of anti-social activity.
- Concern about surface water and foul drainage. There are already issues in the area and development of the nature proposed may be premature pending the upgrade of the existing services.
- Request that the Planning Authority consider the Draft Regional Spatial & Economic Strategy (RSES); there are low levels of employment in the area and car dependency is an issue in the area.
- Request that the proposed house adjacent to no. 24 Killybegs Manor be relocated due to concerns regarding drainage.
- Request that enhanced boundary provision be made and that suitable landscaping be provided on site.
- Request that boundary walls of 2 m in height be provided to prevent overlooking of existing houses.
- Concern that the proximity of certain houses (21 – 26) will result in overlooking and loss of daylight of existing houses in Barrington Court.
- Concerns about the loss of hedgerows and trees.
- There is no capacity in Prosperous village for additional vehicular traffic that this development will generate.
- Questions raised about the potential for piping an existing open drain, the need for the protection of trees etc.
- History of refused developments due to a lack of capacity in the foul drainage system with reference to the Osberstown Waste Water Treatment plant.
- There are protected structures and National Monuments on site.
- The site is located within a flood zone.

- Design is not acceptable and does not take account of the character of Prosperous.
- Legal issues with reference to the positioning of houses over a rising main.

Further comments in relation to some of the above points were made on receipt of the further information response.

#### 4.0 Planning History

There have been a number of applications on this site and the following are considered to be relevant to this appeal:

**P.A. Ref. 11/78/ ABP Ref. PL09.238790** refers to an August 2011 decision to refuse permission for 50 houses on this site. Reasons for refusal are as follows:

1. The Osberstown wastewater treatment plant has no capacity to cater for flows generated from the proposed development and has exceeded its capacity both hydraulically and biologically. The Osberstown wastewater treatment plant is located upstream of Leixlip water treatment works where sewage overflows could cause serious health problems. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
2. Having regard to the submissions made in connection with the planning application and the 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 would be contrary to the proper planning and sustainable development of the area.
3. It is considered that the proposed development, by reason of its layout and design, 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. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.



**P.A. Ref. 09/835/ ABP Ref. PL09.235082** refers to a March 2010 decision to refuse permission for 65 residential units due to deficiency in sewerage facilities, lack of capacity at Osberstown Waste Water Treatment Plan, encroachment on open space, inappropriate layout and design, and lack of open space.

**P.A. Ref. 08/1967** refers to a January 2009 decision to refuse permission for 73 units due to deficiency in sewerage facilities, lack of capacity at Osberstown wwtp, encroachment on open space and inappropriate layout and design, lack of open space and lack of residential mix in the development.

**P.A. Ref. 07/1653** refers to an April 2008 decision to refuse permission for 42 dwellings. Reasons for refusal were prematurity of the development pending the upgrade of the foul sewer and proposal would contravene a condition regarding the building over a wayleave.

**P.A. Ref. 05/529/ ABP Ref. PL09.216253** refers to a June 2006 decision to refuse permission for 46 dwellings due to deficiency in the provision of sewage facilities and the proposal would be premature pending the adoption of the draft Prosperous Local Area Plan.

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. Prosperous is designated as a Small Town in the County Kildare Settlement Hierarchy contained within the Kildare County Development Plan 2017 - 2023.
- 5.1.2. The Settlement Strategy allows for a targeted population increase from 2,248 in 2011 to 2,432 in 2023.
- 5.1.3. Section 1.1.4 of Volume 2 of the Development Plan includes the following policy:

‘STP 1 Monitor carefully the scale, rate and location of newly permitted developments and apply appropriate development management measures to ensure compliance with the Core Strategy including population targets for each small town;

and to achieve the delivery of strategic plan led and coordinated balanced development throughout the planning area’.

and

‘The development of the small towns will be governed by the overarching policies and objectives of the relevant chapters within this Plan together with the relevant development management standards outlined in Volume 1, Chapter 17 of the Plan’.

## 5.2. Prosperous Small Town Plan

5.2.1. A plan for Prosperous is contained in Section 1.6 of Volume 2 of the Kildare County Development Plan 2017 – 2023. The centre of Prosperous is designated as an Architectural Conservation Area but does not extend to include the subject site.

The site is zoned as follows:

B: ‘Existing Residential/ Infill’ – section to the north of the site.

C: ‘New Residential’- indicated as 1.6 hectares and is located to the eastern side of the site.

F: ‘Open Space and Amenity’ – located to the western side of the site.

Part of the C zoned lands are within an area indicated for ‘Flood Risk Assessment’.

**KD013-010001** and **KD013-010002** are located to the west of the site and refer to ‘Ringfort – rath’ and an ‘enclosure’. These are located within an farmyard and are poorly preserved.

5.2.2. Objective PR1: ‘Seek the development of lands for residential developments during the lifetime of this Plan largely within and around the town centre zone, areas designated as existing residential / infill and on lands zoned new residential, in accordance with the principles of proper planning and sustainable development’.

## 5.3. National Guidance

### 5.3.1. National Planning Framework – Project Ireland 2040

The National Planning Framework (NPF) recommends compact and sustainable towns/ cities and encourages brownfield development and densification of urban

sites. Policy objective NPO 35 recommends increasing residential density in settlements including infill development schemes and increasing building heights.

Other relevant policies from the NPF include the following:

- NPO 6 – Regenerate/ rejuvenate cities, towns and villages.
- NPO 13 – Relax car parking provision/ building heights to achieve well-designed high-quality outcomes to achieve targeted growth.

**5.3.2. Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (DoEHLG, 2009) and its companion, the Urban Design Manual - A Best Practice Guide (DoEHLG, 2009).**

These Guidelines promote higher densities in appropriate locations. A number of urban design criteria are set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. Increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout.

**5.3.3. Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DoHPLG, 2018).**

These guidelines provide for a range of information for apartment developments including detailing minimum room and floor areas.

**5.3.4. The following are also relevant:**

- **Design Manual for Urban Roads and Streets (DMURS).**
- **Permeability Best Practice Guide (NTA, 2015).**

**5.4. Natural Heritage Designations**

The subject site is not located within any Natural Heritage designated lands. Ballynafagh Bog (Site Code 000391) which is a Special Area of Conservation and a Proposed Natural Heritage Area, is located 730 m to the north/ north west of the

subject site. The Grand Canal is approximately 2 km to the south west of the site and is a Proposed Natural Heritage Area (Site Code 002104).

## 5.5. EIA Screening

Having regard to the nature of the proposed development comprising a residential development of 40 units in the form of 32 houses and 8 no. maisonettes/ apartments including all necessary site works, in an established zoned, urban area and where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Mr J Conway has appealed the decision of Kildare County Council to grant permission for the proposed development. The grounds of appeal can be summarised as follows:

- There are constraints in the Osberstown Waste Water treatment system and there is consequently insufficient capacity to serve this development.
- History of refused permissions on this site due to capacity constraints in the foul drainage system. Should be consistency with previous decisions.
- Number of issues regarding the design of the development including the layout, location of a pumping station on open space and proximity to recorded monuments.
- Boundary treatments should consist of 2 m high block walls.
- The indicated legal wayleave for a rising main is not in the correct location and the true location would require the omission of houses no. 15, 23 and 24.
- Insufficient consultation with the residents of Killybegs Manor in relation to the provision of a pedestrian/ cyclist link from the proposed development.

## 6.2. Applicant Response

The applicant has engaged the services of Brian Connolly Associates (BCA) to prepare a response to the third-party appeal.

The following points are made:

- Considers the appeal to be vexatious and refers to issues that the appellant has with the Planning Authority.
- The concerns regarding the capacity of the Osberstown waste water treatment plant have been addressed by Irish Water and a number of planning permissions (numbers referenced by the applicant) have been approved in this area.
- The design of the development has been considered having regard to appropriate guidelines and is located within an established urban area.
- An appropriate buffer has been provided in relation to the recorded monuments.
- The pumping station is appropriately located and is outside of the buffer of the recorded monuments.
- Attenuation storage tanks are located in an acceptable location.
- The riparian corridor is acceptable and exceeds 10 m.
- Boundary treatments are clearly detailed and are appropriate to their locations on site.
- No houses are to be built over the legal wayleave.
- Issue about the pedestrian/ cycle connection into Killybegs Manor appears to be more about getting a Security Bond on a previous application (P.A. Ref. 00/2311) returned.

The applicant has submitted supporting documentation with this response, and which is noted.

I have noted the comments made by the applicant regarding the motives for the appeal. I am satisfied that the appeal is acceptable and individual issues are considered later in this report.

### 6.3. **Planning Authority Response**

The Planning Authority have noted the third-party appeal and have commented that Irish Water and the Kildare County Council Water Services Section have reported no objection to the development subject to recommended conditions. The design of the development is also considered to be acceptable and is in accordance with Section 28 Guidelines and the NTA Permeability Best Practice Guide.

## 7.0 **Assessment**

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Principle of Development
- Design and Impact on the Character of the Area
- Foul and Surface Water Drainage
- Impact on Residential Amenity
- Traffic and Access
- Other Issues
- Appropriate Assessment Screening

### 7.2. **Principle of Development**

7.2.1. The site is zoned for a mix of residential development and open space/ amenity use and is located within the established urban area of Prosperous. The number of units as permitted by the Planning Authority, has been reduced from the original proposal for 42 units to 40 units. The density has also reduced from 15 to 14 units. The applicant states the density to be 20 units per hectare; only the residentially zoned lands are included in this calculation. I note that the site area on the Site Layout plan is stated to be 28,868 sq m, whereas the submitted application form states the area to be 2.765 hectares. Drawing No. 18001-307 dated 09/09/2019 provides an overlay of the development onto the site zoning. A small section of the proposed road is on the 'Open Space & Amenity' zoned lands; there is no loss in the area of open space

though as large areas of the 'New Residential' zoned lands provide for open space uses.

- 7.2.2. National Policy for such a residential development would normally require a density at 15 to 20 units per hectare, the proposed density is 14 units per hectare. This could be achieved in the form of additional apartment units and/ or terraced houses; however, significant numbers of apartments and terraced housing would be out of character with the immediate area. The requirements for wayleaves, riparian corridor and a buffer around the recorded monuments, restricts the development potential of these lands and I therefore consider that the density/ number of units to be provided is acceptable. I note Objective PR1 of the Prosperous plan which seeks 'the development of lands for residential developments during the lifetime of this Plan largely within and around the town centre zone, areas designated as existing residential / infill and on lands zoned new residential, in accordance with the principles of proper planning and sustainable development'. I consider that the proposed development meets this objective.

### **7.3. Design and Impact on the Character of the Area**

- 7.3.1. The subject site has the benefit of access to two roads, however that to the south is somewhat restricted and it is appropriate that access be from the road to the north west of the site, 'The Downings' road. The development of this site is somewhat restricted by the requirement for a wayleave that crosses the site. In addition, the residential zoning results in a 'T' shape developable area from 'The Downings' road as there is a relatively narrow development area addressing this road and part of the site is hidden by existing houses and is also set back from the road due to the open space zoning on the western part of the site.
- 7.3.2. As already identified in this report, the layout and number of units have been revised and having considered the reasons for the revisions, I consider that it is appropriate to assess the layout/ details as submitted by way of Clarification of Further Information as the finalised layout subject to this appeal, the Site Layout Plan submitted by way of Drawing no. 18001-301G refers. Revisions to the layout were required in the interest of residential amenity, engineering reasons, archaeological and biodiversity reasons.

- 7.3.3. I consider that the applicant has had full regard to the existing character and form of development in the area. The proposed houses addressing 'The Downings' road replicate the design of the existing houses to the north at Cor na Móna. This will allow for a good integration of the new and existing houses on this road. Similarly, the two-storey apartment block as designed to the south of the site is acceptable and provides for a suitable frontage that addresses the public road.
- 7.3.4. There is an appropriate mix of house types within the development, this is probably to address the constraints of the site but does ensure a variety of house types. One aspect of the design/ layout that is welcomed is that end of row houses is provided with dual/ active aspects that address internal streets/ open space. This ensures that an appropriate level of passive surveillance is provided in these locations. The residential units are to be finished in a mix of brick and render, which is acceptable.
- 7.3.5. The proposed layout is considered to be generally acceptable having regard to the character of the area and will ensure an appropriate level of integration with the existing form and character of houses to the western side of Prosperous.

#### **7.4. Foul and Surface Water Drainage**

- 7.4.1. The appellant has raised a number of issues with reference to foul and surface water drainage. I am aware of the history of the site and the fact that multiple refusals have been issued over time. The primary reasons for refusal on this site were of an engineering nature. I note the extensive further information request issued by the Kildare County Council Water Services Department and by Irish Water. From the submitted details and reports, it is evident that the applicant was able to address these matters by way of revisions to the proposal/ provision of further information and most importantly was able to satisfy any concerns raised by the Water Services Department and Irish Water.
- 7.4.2. The issue of constraints in the Upper Liffey Valley was identified as a concern by the appellant and was identified a reason for refusal in previous applications on this site. I am satisfied that Irish Water have addressed this issue and the applicant has referred to the completion of necessary works in December 2016 with a number of subsequent applications permitted in the area on foot of these works.
- 7.4.3. Suitable on-site surface water drainage systems have been proposed to serve this development which are again to the satisfaction of the Kildare County Council Water



Services Department. Kildare County Council do not oppose the method of surface water attenuation to be used on site and I note the use of suitable SUDs measures to serve the development. A minimum of 5 m of a riparian corridor is proposed to the north of the site along the identified watercourse and a suitable wayleave along the rising main is proposed and I consider these proposals to be acceptable.

7.4.4. The applicant engaged the services of IE Consulting to prepare a Site Specific Flood Risk Assessment. It is apparent from this report that the site is not prone to any issues of flooding. Any surface water ponding will be generated by run-off from within the site, this should be controlled by the proposed surface water drainage system. No impacts on the surrounding area are foreseen.

7.4.5. I do not foresee any concerns regarding the provision of suitable foul drainage and surface water drainage to serve this development. I am satisfied that the previous reasons for refusal have been addressed by the applicant. This is not unusual in that processes and engineering solutions can be identified to overcome issues of concern and in this case the capacity of the Osberstown Waste Water Treatment Plan has been suitably increased and has sufficient capacity to serve this residential development.

## **7.5. Impact on Residential Amenity**

7.5.1. The proposed houses and apartments are provided with adequate room sizes including the provision of suitable storage space. All of the houses are provided with adequate private amenity space and in-curtilage parking for two cars. The apartments are triple aspect with terraces/ balconies of 10 sq m. I note that the balconies are located to the northern side of this block, it would be preferable if they were located to the southern side in terms of amenity, however this would result in the relocation of the living area to the northern elevation. In general, the layout will provide for a good standard of residential amenity for those living within the apartments and I also note that they have easy access to the proposed public open space serving this development.

7.5.2. The applicant has provided for approximately 39% of the site area as public open space. This figure is somewhat exaggerated by the need for buffers zones and wayleaves etc. however I am satisfied that the development will be adequately provided for in terms of public amenity.

- 7.5.3. I am also satisfied that the applicant has addressed any potential concerns regarding overlooking/ loss of daylight of existing houses in the area. The site layout plan clearly indicates that separation distances in excess of 22 m can be provided between existing and proposed houses. The site layout design ensures that overlooking within the development does not occur to such a significant level as to impact negatively on residential amenity.
- 7.5.4. The issue of boundary treatments was raised by the appellant. The site is adjoined by existing residential development and the subject site has the benefit of the existing boundary treatments that border these sites. Drawing no. 18001-302C submitted by way of Clarification of Further Information indicates the 'Boundary Treatment Plan' and I consider this to be acceptable for this development, except that block walls should be provided for rear gardens. I welcome the extensive retention of hedgerow along the southern and western sides of the site.

## **7.6. Traffic and Access**

- 7.6.1. The proposed road and pedestrian footpath layout are considered to be acceptable to serve this development. The access to the north west of the site onto 'The Downings' road is appropriate as it allows for suitable junction provision and adequate sightlines. This road also provides for the most direct access to the centre of Prosperous.
- 7.6.2. The provision of suitable pedestrian footpaths is welcomed and in particular the attempt by the applicant to increase permeability with adjoining residential areas. The pedestrian access to the south of the site is to be expected, however the link into Killybegs Manor is particularly welcomed as it encourages the use of more sustainable forms of transport such as walking and cycling. This is in accordance with the NTA guidance on permeability.
- 7.6.3. Adequate car parking provision is indicated on the site layout plan. Car parking is within curtilage for the houses and is suitably located for the proposed apartments. Direct surveillance of the car parking by apartment residents is available which is desirable. A total of four visitor parking spaces is indicated on the site plan though I do not foresee that such parking will be an issue in the area.
- 7.6.4. Public street lighting details have been prepared by Astrotek Lighting Limited and are contained within a report dated November 2019 and Drawing No. KE/DNP/01.

7.6.5. No specific bicycle lane provision is indicated; however, this is a relatively modest residential development and traffic speeds as indicated at 30 kmh will ensure that cycling can be undertaken comfortably and safely.

## 7.7. **Other Issues**

7.7.1. I note the location of the proposed pumping station on the Open Space to the north west of the site. The zoning matrix (Table 2.6 Villages – Land Use Zoning Matrix Table of Volume 2 of the Kildare County Development Plan 2017 - 2023) includes Utility Installations as ‘Open for Consideration’ on such lands zoned for ‘Open Space & Amenity’; I therefore consider this location acceptable.

7.7.2. The applicant engaged the services of ‘The Tree File – Consulting Arborists’ to prepare an Arboricultural Report and this was submitted by way of further information to the Planning Authority in September 2019. A total of 14 trees were proposed for removal. 10 of these are Category C trees and only one Category B tree is to be removed. Various tree protection measures are proposed and are noted.

7.7.3. The applicant has proposed a buffer around the recorded monuments to the west of the site in order to ensure the protection of this section of the site. The Planning Authority included a condition (no. 4) in their grant of permission, requiring the engagement of an archaeologist during the construction phase of development and to monitor development in the vicinity of the recorded monuments, I consider that a similar condition should be attached to any grant of permission.

## 7.8. **Appropriate Assessment Screening**

7.8.1. A screening report was submitted by way of a further information response, prepared by Openfield Ecological Services. The AA Screening report concluded that significant effects are not likely to arise, either alone or in combination with other plans or projects to any SAC or SPA. Ballynafagh Bog SAC is circa 700 m from the site boundary, Ballynafagh Lake SAC is over 2 km away and the site is within the hydrological catchment of the River Barrow and River Nore SAC. Impacts to the Ballynafagh Bog and Lake were dismissed due to the nature of the development and

distance from these sites. The development will not impact on River Barrow or Nore due to distance from these.

- 7.8.2. The proposed development is located within an urban area on zoned lands that are serviced. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 designated sites. A Stage 2 Appropriate Assessment is, therefore, not required.

## 8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following conditions and reasons.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Kildare County Development Plan 2017 – 2023, the Prosperous Small Town Plan, National Guidelines and the zoning of the site for residential and open space/ amenity purposes, to the location of the site in an established urban area within walking distance of Prosperous town centre and to the nature, form, scale, density and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential, visual or environmental amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 22 <sup>nd</sup> of January 2019, as amended by the further plans and particulars submitted on the 24 <sup>th</sup> of September 2019 and further modified by clarification of further information received on the 20 <sup>th</sup> of November 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the
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	<p>planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>This permission is for 40 no. residential units in the form of 32 no. houses, 4 no. maisonettes and 4 no. apartments. The layout shall be as per Drawing No. 18001 – 301G – Site Layout received by the Planning Authority on the 20<sup>th</sup> of November 2019.</p> <p><b>Reason:</b> In the interest of clarity.</p>
3.	<p>Prior to the commencement of development, the developer shall provide, for the written agreement of the planning authority, full details of the proposed external design/ finishes in the form of samples and on-site mock-ups. These details shall include photomontages, colours, textures and specifications. The apartment terrace/ balcony railings shall be painted/ coated metal and shall not be unpainted galvanised metal railings.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the junction with the public road to the shall be in accordance with the detailed standards of the Planning Authority for such works.</p> <p>b) A Stage 3 Road Safety Audit in relation to all road works including the junction with the public road, shall be prepared and submitted for the written agreement of the Planning Authority prior to the commencement of development. Any necessary revisions and/ or additions shall be agreed in writing with the Planning Authority.</p> <p><b>Reason:</b> In the interest of amenity and of traffic and pedestrian safety.</p>

5.	<p>Footpaths shall be dished at road junctions in accordance with the requirements of the Planning Authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Full details of the pedestrian/ cycling link between the site and Killybegs Manor shall be provided for the written agreement of the Planning Authority prior to the commencement of development. This to include full engineering details, suitable lighting and landscaping.</p> <p><b>Reason:</b> In the interest of pedestrian safety.</p>
6.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling unit.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
7.	<p>Proposals for a development name, unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, houses and apartment unit numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
8.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p>

	<p><b>Reason:</b> In the interest of public health.</p>
9.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
10.	<p>All rear gardens shall be bounded by block walls, 1.8 metres in height, capped, and rendered, on both sides, to the written satisfaction of the planning authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
11.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) A plan to scale of not less than 1:500 indicating –</p> <p>(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder</p> <p>(ii) Details of screen planting which shall not include cupressocyparis x leyland</p> <p>(iii) Details of roadside/street planting which shall not include prunus species</p> <p>(iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.</p> <p>(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment</p> <p>(c) A timescale for implementation including details of phasing</p>

	<p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
12.	<p>Vegetation clearance and tree removal shall take place outside the bird breeding season (March 1st – August 31st).</p> <p><b>Reason:</b> To protect birds and bird breeding habitats during the nesting season.</p>
13.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, identifying the location of the 20 m buffer zone around the recorded monuments to the west of the site and</p> <p>(c) shall carry out licenced metal detection surveys (including the field boundaries to be removed), develop an archaeological and artefact strategy on the basis of the results and in consultation with the Department of Culture, Heritage and the Gaeltacht and the National Museum of Ireland, agree protective measures in advance of site preparation and construction works to ensure the preservation/ protection of archaeological features and</p>



	<p>archaeological monitoring of topsoil stripping (licenced under the National Monuments Acts 1930 to present).</p> <p>(d) A detailed final report describing the results of all archaeological work carried out on site, including any subsequent archaeological excavation by hand and required specialist post excavation reports, shall be submitted to the relevant authorities following the completion of all archaeological assessment. All costs shall be borne by the developer in this regard.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
14.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
15.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
16.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be</p>

	<p>submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
17.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
18.	<p>(a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company</p> <p>(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
19.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p>

	<p><b>Reason:</b> In the interest of orderly development and the visual amenities of the area.</p>
20.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
21.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>

22.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Paul O'Brien  
Planning Inspector

11<sup>th</sup> May 2020