



An
Bord
Pleanála

Inspector's Report

ABP-313893-22

Development	Retention and preservation of the existing Villa house (protected structure) as a private dwelling and the construction of 12 no. 2 storey 3 bed dwellings in 3 terrace blocks and all other associated site works.
Location	Villa, Curryhills, Prosperous, County Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	21/1428
Applicant(s)	AMC Properties Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Refusal
Appellant(s)	AMC Properties Limited
Observer(s)	None

Date of Site Inspection

14th December 2023

Inspector

Elaine Power

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1.0 Site Location and Description

- 1.1. The appeal site is located within the town of Prosperous, County Kildare, c.17km south-west of Maynooth and c.9km north west of Sallins. The town is located at the intersection of the Maynooth Road (R408), the Celbridge Road (R403) and Sallins Road (R407). The appeal site is located in the northern portion of the town with access from the R403. The surrounding area is suburban in nature and comprises a variety commercial / retail uses and residential uses.
- 1.2. The site has a stated area of 0.976ha. The eastern portion of the site currently accommodates a single dwelling, the 'Villa', which is a protected structure (RPS B13-24), with a tree lined driveway and a walled garden to the rear. The western portion of the site accommodates a paddock / former agricultural lands. The eastern and western portion of the site are separated by the walls of the walled garden, the gable end of the protected structure and mature vegetation and planting. There is a gateway to the rear of the protected structure that provides access to the paddock.
- 1.3. The site is bound to the north by Anne Street and Lime Court residential estates, partly to the south and to the east by Brookes Mill residential estate, partly to the south by residential properties and to the west by Villa Court.
- 1.4. The appeal site is located within an Architectural Conservation Area and Ballynafagh Bog SAC (site code 000391) is located c. 700m west of the appeal site.

2.0 Proposed Development

- 2.1. It is proposed to retain and preserve an existing 2-storey house known as the 'Villa' (protected structure) as a single family dwelling and construct 12 no. 2-storey 3-bed houses in 3 no. terraces. The proposed development includes a new vehicular access to the north of the site from Anne Street, on lands which are within the ownership of the local authority and all associated infrastructure to accommodate the proposed development.

3.0 Planning Authority Decision

3.1. Decision

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

1. The development as proposed fails to include a conservation management plan / maintenance plan, required for future safeguarding of the 18th century house and to satisfactorily retain a sustainable on-going use of this Protected Structure. Furthermore, the proposed development by reason of the substandard design, poor quality material choice and inadequate and poor quality of open space associated with the protected structure would have a negative impact on the curtilage and setting of the Protected Structure, Villa RPS B13-24 and NIAH 11807009 (regional importance) and would therefore be contrary to policies PS2 and P8 of the Kildare County Development Plan 2017-2023 which seek to protect the curtilage and special character of protected structures from inappropriate development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. It is not considered the development complies with the Architectural Heritage Protection Guidelines 2011, Policy DL1 of the Kildare County Development Plan 2017-2023 and the 12 Criteria as indicated in the Urban Design Manual Best Practice Guidelines in terms of Context, Detailed Design and Public Realm, particularly in relation to the lack of regard for historical context of the site within the grounds of a Protected Structure, the poor design and material choice for the residential blocks and the poor relationship of the Block C with the open space due to the boundary treatment choice. The proposed development would set an undesirable precedent for similar poor-quality development within the grounds of a Protected Structure and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The initial planners report dated the 25th November 2021 raised concerns regarding the proposed development and requested that 26 no. items of further information be requested. These items are summarised below:

1. A conservation led masterplan report for the site.
2. Revised drawings based on the recommendations of the masterplan report.
3. An updated Architectural Heritage Impact Assessment (AHIA).
4. A revised dwelling type and boundary treatment for the unit that addresses the natural play area, to provide an active frontage.
5. The boundary wall in the south west corner of the site appears to be outside of the applicants ownership. A revised boundary treatment plan is required.
6. Address concerns regarding unit mix and tenure.
7. Revised design for units along the sites western boundary to ensure the scheme does not result in undue overlooking of properties in Villa Court.
8. Revised floor plans ensuring each unit reaches the minimum requirement for storage, as set out in the development plan.
9. Revised elevational treatment for Block C, having regard to the site sites sensitive location.
10. Details of bin and bike storage facilities.
11. A confirmation of feasibility is required from Irish Water regarding the proposed amendment to the foul and surface water sewer.
12. Design of the fall of the proposed sewer is required.
13. A survey of the existing foul and surface water networks in the adjacent site.
14. Details on surface water management for the houses.
15. Address the potential water / waste water infrastructure under the site.
16. Details of a waste management plan
17. Further details relating to Part V requirements.
18. Submit a revised drawings indicating compliance with DMURS. Details on EV charging points and the location of the petrol interceptor.

19. Submit Auto-track drawings for a refuse truck.
20. Further details of the proposed pedestrian / cycle link to the adjacent Brook Mills residential estate.
21. Further details of the proposed grasscrete access road.
22. Clarify if a qualified Arborist has been engaged.
23. Details of a landscape masterplan.
24. Any railing proposed shall be steel and powder coated.
25. The play area in the northern area of open space to be redesigned.
26. Details of the natural play space to be revised.

Following receipt of further information it was requested that the applicant provide revised public notices. These revised notices were received by the planning authority on the 3rd May 2022.

The planners report dated the 26th May 2022 considered that all items of further information had not been fully addressed and recommended that permission be refused for the 2 no. reasons set out above.

3.2.2. Other Technical Reports

Housing Section: Report dated 4th November 2021 recommended that further information be sought with regard to Part V requirements and provides a recommended condition if permission is being granted.

Heritage Officer: Report dated 11th November 2021 raised no objection subject to compliance with the recommendations of the Bat Survey.

Area Engineer: Report dated 17th November 2021 raise no objection subject to conditions.

Roads, Transportation and Public Safety Department: Report dated 14th November 2021 recommended that further information be sought. Report dated 10th May 2022 raised no objection, subject to conditions.

Kildare Fire Service: Report dated 17th November 2021 raised no objection.

Parks Department: Report dated 24th November 2021 recommended that further information be sought.

Water Services: Report dated 21st October 2021 recommended that further information be sought. Report dated 27th May 2022 raised no objection, subject to conditions.

Architectural Conservation Officer: Report dated 20th May 2022 recommended that permission be refused. The recommended reasons for refusal are reflected in the reasons for refusal.

Executive Architect: Report dated 29th April 2022 raised no objection subject to conditions.

Environmental Section: Report dated 22nd April 2022 raised no objection subject to conditions.

3.3. **Prescribed Bodies**

Uisce Eireann: The submission notes that there is existing water / waste water infrastructure within the site and recommends that further information be sought requiring the applicant to engage with Uisce Eireann through the submission of a pre-connection enquiry.

3.4. **Third Party Observations**

4 no. observations were received to the original application and 1 no. additional observation was received following the submission of significant further information. The main concerns raised related to the impact of the proposed development on the existing residential amenities of adjacent properties. Concerns were also raised regarding the design and layout of the scheme, in particular the density, access arrangements, anti-social behaviour and works outside of the applicants ownership.

4.0 **Relevant Planning History**

4.1. ***Appeal Site***

Reg. Ref. 15/297: Retention permission was granted in 2015 for a single storey extension to the rear of a 2-storey house, The Villa (protected structure).

4.2. Surrounding Sites

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

Reg. Ref. 05/3024: Permission was granted in 2006 for the demolition of an existing bungalow and the construction of 3 no. retail units and 47 no. dwellings on a site immediately east of the appeal site.

Reg. Ref. 18/1100: Permission was granted in 2019 for the demolition of an existing bungalow and the construction of 18 no. houses on a site located immediately north east of the appeal site.

ABP.305086-20, Reg. Ref. 19/569: Permission was granted in 2020 for the construction of 7 no. houses, on a site immediately south east of the appeal site.

ABP.304859-23, Reg. Ref. 18/1166: Permission was granted in 2020 for the construction of 49 no. dwellings at a site located c. 350m east of the appeal site.

Reg. Ref. 18/1405: Permission was granted in 2019 for the demolition of an existing retail unit and the construction of 3 no. 2-storey dwellings immediately south of the appeal site.

ABP.306422-20, Reg. Ref. 19/48: Permission was granted in 2020 for the construction of 42 no. dwellings on a site c. 500m south west of the appeal site.

ABP.314153-22, Reg. Ref. 20/1403: Permission refused in 2022 for the construction of 94 no. dwellings on a site located c. 290m north of the appeal site. This decision is currently on appeal.

ABP.316854-23, Reg. Ref. 22/1135: Permission was granted in 2023 for the construction of 34 no. houses on a site c. 310m north of the appeal site. This decision is currently on appeal.

5.0 Policy Context

5.1. Kildare County Development Plan 2023 - 2029

- 5.1.1. The appeal site is subject to 2 no. zoning objectives. The area accommodating the vehicular access and the protected structure is zoned A: Town Centre with the associated land use objective *'to provide for the development and improvement of appropriate town centre uses including residential, commercial, office and civic use'*. The development plan further states that the purpose of this zoning is to protect and enhance the special character of the town centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing town. It will be an objective of the Council to encourage the use of buildings and backlands and especially the full use of upper floors. The size and scale of all new developments shall not be out of character with the already established town centre area. Retail developments shall have regard to Chapter 8 of Volume 1. Warehousing and other industrial uses will generally not be permitted in the town centre.
- 5.1.2. The remaining portion of the site, which is located to the south and west of the protected structure is zoned B: Existing / Infill Residential with the associated land use objective *to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services*. The development plan further states that this zoning principally covers existing residential areas and provides for infill development within these existing residential areas. The primary aim of this zoning objective is to preserve and improve residential amenity and to provide for further infill residential development at an appropriate density.
- 5.1.3. Table 2.1 of Volume 2 (Small Towns and Environs Plan) of the Development Plan sets out the development capacity of Small Towns. Prosperous has a target of 251 no. persons and 91 no. additional units by the end of 2028. The target residential density is 30-35 units per ha.
- 5.1.4. Section 2.5 of Volume 2 notes that Prosperous has an adequate water supply and waste water capacity to meet the current demands and the future planned growth over

the life of this Plan. The following objectives for Prosperous, set out in Volume 2 are considered to be relevant:

- *ST P1* Encourage and promote development within the town centre which is of a high standard of design, has an appropriate mix of uses, enhances the built environment and delivers a high-quality public realm.
- *ST P14* Ensure that new development has regard to its environment, the local heritage of the town and the historic character of the streetscape.
- *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.

5.1.5. Chapter 2 Core Strategy and Settlement Strategy, Chapter Housing, Chapter 6 Infrastructure and Environmental Services, Chapter 11 Built and Cultural Heritage, Chapter 14 Urban Design, Placemaking and Regeneration and Chapter 15 Development Management Standards of the development plan are all considered relevant. The following policies and objectives of the development plan are also considered relevant:

- 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.
- AH P6 Protect, conserve and manage the archaeological and architectural heritage of the county and to encourage sensitive sustainable development in order to ensure its survival, protection and maintenance for future generations.
- AH P7 Promote appreciation of the landscape and historical importance of traditional and historic gardens, demesnes and parks within County Kildare and particularly where they constitute an important and intrinsic value to the setting of a protected structure.
- Objective AH O65 Ensure that any development, modifications, alterations, or extensions within an ACA are sited and designed appropriately and are not detrimental to the character of the structure or to its setting or the general character of the ACA and are in keeping with any Architectural Conservation Area Statement of Character Guidance Documents prepared for the relevant ACA.
- Objective AH O20 Conserve and protect buildings, structures and sites contained on the Record of Protected Structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.
- Objective AH O21 Protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage. Any proposed development within the

curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire built heritage complex and contributes positively to that aim.

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

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

The site is located 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 followings RPOs are of particular relevance:

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the ‘Sustainable Residential Development in Urban Areas’. ‘Sustainable Urban Housing; Design Standards for New Apartment’ Guidelines, and Draft ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

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

5.3. ***National Planning Framework***

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

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

5.4. **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area, 2009
- Quality Housing for Sustainable Communities: Design Guidelines, 2007
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- Architectural Heritage Guidelines for Planning Authorities, 2011

5.5. **Natural Heritage Designations**

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

- Ballynafagh Bog SAC (000391) c. 700m west of the appeal site.

- Ballynafagh Lake SAC (001387) c. 2.5km west of the appeal site.
- Mouds Bog SAC (002331) c. 8.2km south of the appeal site.
- Pollardstown Fen SAC (000396) c. 12km 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 that retention and preservation of the existing 2-storey house 'Villa' (protected structure) as a single family dwelling and the construction of 12 no. 2-storey 3-bed houses on a site with a stated gross area of c. 0.976ha. The site is located in the urban area (other parts of a built-up area) and is, therefore, below the applicable threshold of 10ha. There are no excavation works proposed. Having regard to the relatively limited size and the urban location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would use the public water and drainage services of Uisce Eireann and Kildare County Council, upon which its effects would be marginal.

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

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the planning authority's decision to refuse permission. The grounds of the appeal relate to the 2 no. reasons for refusal. Revised drawings are submitted with the appeal to address the reasons for refusal and it is requested that the Board consider the proposed changes as part of the appeal. The appeal is summarised below:

Reason for Refusal no. 1: Conservation of a Protected Structure

- The applicant is happy to prepare a conservation management plan / maintenance plan by way of condition. Appendix 1 of the appeal includes a Conservation Architect Report which notes that the Villa was built as a single family home and there is no proposal to alter this use. It is envisioned that the house would be sold as a single family dwelling. The future owner would be responsible for the routine maintenance and upkeep of the protected structure.
- The tree lined avenue would remain in private use, associated with the Villa. It would not provide access to the proposed new houses.
- The Walled Garden would also be used as open space for the Villa and the proposed dwellings.
- There are existing modern residential estates surrounding the Protected Structure and Walled Garden.
- Disagree with the Planning Authority that the scheme includes poor quality open space.

- The principle of providing housing within the Walled Garden was agreed during the pre-planning stage. to minimise the impact the height is limited to 2-storeys and grasscrete is proposed for the access route. The removal of a section of the walled garden to provide access to Brookes Mill residential estate was a requirement of the planning authority.
- With regard to materials and finishes the design reflects what was requested and suggested during the pre-planning discussions. The issue of materials could have been addressed by way of condition.
- Revised designs were submitted with the appeal, which provide a bespoke design response to reflect the curtilage and setting of the protected structure.

Reason for Refusal no. 2: Compliance with the Architectural Heritage Guidelines and Urban Design Manual

- The scheme is respectful of its setting within a protected structure. no building is set forward of the main dwelling, and all housing is set back from the protected structure.
- The height of the houses is respectful and do not dominate the roofscape.
- The scale of the scheme is in keeping with the context of the site and surrounding area, which predominately comprises housing developments. The revised design positively contributes to the character and identity of the neighbourhood.
- Existing boundaries are respected, with tree retention maximised.
- The scheme is in accordance with the principles of the Urban Design Manual.
- The revised design ensures all public spaces are overlooked.

Conservation Architect Report

- The only curtilage that is relevant to the protected structure is the tree-lined driveway and entrance driveway, rear yard and the walled former vegetable garden and orchard.
- Griffiths Valuation Map, 1847, indicates that the Villa was a farmhouse, occupied by a tenant farmer and the surrounding the surrounding agricultural lands were rented from 4 no. landowners.

- Disagree with the planning authority that the proposed development is of a substandard design. The render finish is a good choice, fitting in with the protected structure.
- The proposed development would allow for an appropriate use of the site. The tree lined avenue would remain unaltered, as would the driveway to the front of the house.
- The protected structure would still overlook open space.
- The proposed development would not detract from the special character of the protected structure and its curtilage.
- It is agreed that the Villa had a regrettable re-working in the 1970's. However, it is considered that the building is in good standing of condition and maintenance.
- It is unreasonable to require the applicant to undo works carried out by a previous owner c. 50 years ago, when such works were carried out in compliance with the planning laws at the time.
- The removal of the modern outbuildings and the paving of the narrow rear yard, overlooking its shared open space in the walled garden is an acceptable solution.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 Assessment

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

- Principle of Development
- Built Heritage
- Design Approach
- Appropriate Assessment

7.2. Principle of Development

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

7.2.2. The appeal site is subject to 2 no. zoning objectives. The eastern portion of the site which accommodates the protected structure, Walled Garden and the tree lined driveway is zoned A: Town Centre with the associated land use objective '*to provide for the development and improvement of appropriate town centre uses including residential, commercial, office and civic use*'. The development plan further states that the purpose of this zoning is to protect and enhance the special character of the town centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing town.

7.2.3. The remaining portion of the site, which is located to the south and west of the protected structure is zoned B: Existing / Infill Residential with the associated land use objective *to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services*. The development plan further states that this zoning principally covers existing residential areas and provides for infill development within these existing residential

areas. The primary aim of this zoning objective is to preserve and improve residential amenity and to provide for further infill residential development at an appropriate density.

- 7.2.4. I am satisfied that the proposed residential use is in accordance with the sites zoning objectives and that the scheme should be assessed on its merits.

7.3. ***Built Heritage***

- 7.3.1. The site currently accommodates a single dwelling, the 'Villa', which is a protected structure (RPS B13-24). The house is also listed on the NIAH (ref. 11807009), with a regional importance rating. The NIAH describes the protected structure as a detached five-bay two-storey house, constructed c.1780. The NIAH further notes that the Villa is a fine and imposing late eighteenth-century country residence that is one of the most important historic buildings in the locality of Prosperous, due to its age and architectural ambition. The house is attractively set in its own grounds just outside of the centre of Prosperous and the Villa is a picturesque feature in the locality.

- 7.3.2. The eastern portion of the site that accommodates the protected structure, the tree lined driveway and the Walled Garden are all located within the Prosperous Architectural Conservation Area (ACA). In the interest of clarity the western portion of the appeal site is not located within the ACA.

- 7.3.3. The planning authority's first reasons for refusal states that the development fails to include a conservation management plan / maintenance plan, required for future safeguarding of the 18th century house and to satisfactorily retain a sustainable on-going use of this protected structure.

- 7.3.4. The retention and preservation of the protected structure is noted in the site description. However, the applicant clarified in the documentation submitted by way of further information and with the appeal that no works are proposed to the protected structure. It is envisioned that it would be retained as a single-family dwelling. This is considered reasonable. During my site visit on the 14th December 2022 the house appeared to be occupied. A Structural Condition Report of the Villa was submitted with the application. The report notes that the house is generally in good structural condition. An Architectural Heritage Assessment was also submitted with the

application which provides a record of the internal and external condition of the protected structure and notes that the building contains minimal historic fabric.

- 7.3.5. It is also noted that retention permission was granted (Reg. Ref. 15/297) in 2015 for a single storey extension to the rear of the Villa (protected structure) and a conservation management plan / maintenance plan was not required as part of that application. I am satisfied that the proposed development would have no physical impact on the built fabric of the house and any potential effects are limited to visual impacts. It is acknowledged that the protected structure is located within the red line boundary of the appeal site, however, it is my opinion that a conservation management plan / maintenance plan is unwarranted in this instance and the continued use of the protected structure as a single-family dwelling would be an appropriate on-going use for the protected structure.
- 7.3.6. The planning authority's first reason for refusal also states that the proposed development by reason of the substandard design, poor quality material choice and inadequate and poor quality of open space associated with the protected structure would have a negative impact on the curtilage and setting of the Protected Structure, Villa RPS B13-24 and NIAH 11807009 (regional importance) and would therefore be contrary to policies PS2 and P8 of the Kildare County Development Plan 2017-2023 which seek to protect the curtilage and special character of protected structures from inappropriate development.
- 7.3.7. As noted above, the planning authority assessed the scheme against the provisions of the previous development plan and my assessment is based on the policies and objectives of the current statutory plan, which is the Kildare County Development Plan 2023-2029. In my view the relevant policy and objectives are Policy AH P7 which aims *to promote appreciation of the landscape and historical importance of traditional and historic gardens, demesnes and parks within County Kildare and particularly where they constitute an important and intrinsic value to the setting of a protected structure* and Objective AH O21 which aims *to protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its*

curtilage. Any proposed development within the curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire built heritage complex and contributes positively to that aim.

- 7.3.8. I agree with the applicant that there is some overlap between the planning authority's reasons for refusal. The planning authority's second reason for refusal considered, inter alia, that the proposed development does not comply with the Architectural Heritage Protection Guidelines 2011, in relation to the lack of regard for historical context of the site within the grounds of a Protected Structure.
- 7.3.9. This section of my report assesses the impact of the proposed development on the sites built heritage. The concerns regarding the design, material choice and open space are addressed below in Section 7.4.
- 7.3.10. The NIAH and the documentation on file indicate that the Villa was constructed as a farmhouse and the surrounding area was agricultural lands. The surviving historic landscape of the Villa comprises the tree lined driveway, the view to the north and the walled garden. The applicants Conservation and Architectural Heritage Impact (CAHIA) Report states that the house externally, together with part of its surviving historic designed landscape has survived reasonably intact and can be easily interpreted as a unit. I agree with the findings of the applicants report that the protected structure, lined driveway and walled garden interlinking elements. An Engineering Inspection Report of the Historical Garden Walls and
- 7.3.11. It is noted that the vast majority of agricultural lands surrounding the protected structure have been developed with small scale housing estates. A small field / paddock to the west of the protected structure, which forms part of the appeal site, is all that remains of the former agricultural lands surrounding the house. The view north from the front elevation of the house, was originally towards open fields / agricultural lands. It is now towards open space associated with the Anne Street residential estate. It is noted that the residential estate to the north was designed to ensure the house fronted onto public open space, which is a welcome design approach.
- 7.3.12. The proposed development comprises 12 no. houses in 3 no. terraces accessed from Anne Street to the north. The existing tree lined driveway would be retained and would provide vehicular access to the protected structure only.

- 7.3.13. It is proposed that 8 no. dwellings would be provided at the site's western boundary in 2 no. terraces (Block A and B). These 8 no. houses are located on the former agricultural lands associated with the protected structure and in my opinion are not within the curtilage of the protected structure. This area is also outside of the ACA. A third terrace (Block C) comprises 4 no. dwellings. These dwellings are located to the rear of protected structure, within the Walled Garden. In my opinion the Walled Garden is within the curtilage of the protected structure. This portion of the site is also within the ACA. I have serious concerns regarding the negative impact that the siting of these 4 no. dwellings within the Walled Garden would have on the setting and character of the protected structure.
- 7.3.14. The Architectural Heritage Protection Guidelines notes that features within the curtilage and attendant grounds of a protected structure can make a significant contribution to the character of that structure as the designed landscape associated with a protected structure was often an intrinsic part of the original design concept and, as such, inseparable from the building.
- 7.3.15. The applicants Conservation-Led Masterplan sets out policies to retain the significance of the protected structure. Policy 4 states that the Walled Garden should be retained and should provide open space for the Villa. The applicants CAHIA report notes Policy 4 of the masterplan and states that the Walled Garden would be retained and would be shared as open space. It is acknowledged that a portion of the Walled Garden would be retained as open space and that the access road would be finished with grass-crete to reduce the visual impact of the scheme. However, the removal of significant sections of the historic wall and the construction of 4 no. houses with associated infrastructure within the Walled Garden, which in my opinion is an integral part of the setting of the protected structure, would be inappropriate and detrimental to the character of the protected structure.
- 7.3.16. While it is acknowledged that the site of the Walled Garden is zoned A: Town Centre with the associated land use objective aims to encourage the use of backlands I do not consider the proposed scheme had due consideration of the impact on the setting and character of the protected structure and that the sites zoning objective alone does not provide sufficient justification to develop within this historically significant feature within the curtilage of the protected structure.

- 7.3.17. In the appeal the applicant notes that the agricultural lands surrounding the Villa have been largely developed with modern housing estates. This is acknowledged. However, in my opinion the surrounding agricultural lands did not form part of the curtilage of the protected structure and their development did not negatively impact on the setting or character of the protected structure. Therefore, in my opinion the previous development of agricultural lands surrounding the appeal site does not justify the proposed development with the Walled Garden.
- 7.3.18. The appeal also notes that the Walled Garden is sufficiently large to accommodate the scheme. The Walled Garden has an area of c. 1,740sqm. It is noted that the Walled Garden could accommodate the proposed development and provide sufficient separation distances (c. 38m) from the rear of the protected structure and the front elevation of the proposed 4 no. houses. However, in my opinion the large size of the Walled Garden does not justify the proposed development.
- 7.3.19. Overall, it is my opinion that the construction of 4 no. dwellings within the Walled Garden, which is within the curtilage of a protected structure and the Prosperous Architectural Conservation Area (ACA) would have a detrimental impact on the character and setting of the Villa which is noted in the NIAH as one of the most important historic buildings, set in its own grounds, in the locality of Prosperous. It is also my view that the proposed development would be contrary to the provisions of Policy AH P7 to promote appreciation of the landscape and historical importance of traditional and historic gardens, demesnes and parks within County Kildare and particularly where they constitute an important and intrinsic value to the setting of a protected structure and to Objective AH O21 which aims to protect the curtilage of protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage
- 7.3.20. In conclusion, I agree with Policy 4 of the applicants Conservation-Led Masterplan that the that the Walled Garden should be retained as open space to serve the protected structure. If permission is being contemplated it is my recommendation that the proposed 4 no. dwellings located within the Walled Garden be permanently omitted and the Walled Garden remain as private open space to serve the protected structure.

7.4. ***Design approach***

- 7.4.1. As noted above I have serious concerns regarding the location of 4 no. dwellings (Block C) within the historic Walled Garden, which is within the curtilage of a protected structure and it is my recommendation that these 4 no. dwellings be omitted from any grant of permission. However, as the Board may be minded to grant these dwellings my assessment of the design approach for the scheme relates to all 12 no. dwellings as proposed on drawings submitted with the appeal on the 23rd June 2023.
- 7.4.2. The planning authority's first reason for refusal states that the proposed development by reason of the substandard design, poor quality material choice and inadequate and poor quality of open space associated with the protected structure would have a negative impact on the curtilage and setting of the protected structure.

Design and Layout

- 7.4.3. The proposed scheme comprises the construction of 12 no. houses in 3 no. terraces referred to as Block A, B and C. Each block comprises 4 no. terrace dwellings with associated rear private open space and 2 no. car parking to the front of each dwelling. Blocks A and B are located in a row at the site's western boundary with Villa Court. Block C is located perpendicular to Blocks A and B at the site's southern boundary with residential dwellings and by Brookes Mill residential estate to the south and east. All 12 no. houses are located to the rear of the protected structure, which ensures the protected structure retains its view northwards. This is welcomed and considered appropriate. Access to the proposed houses is from Anne Street to the north. Open space is proposed within the Walled Garden and at the site's northern boundary with Anne Street.
- 7.4.4. Blocks A and B comprise a row 8 no. houses at the sites western boundary with Villa Court. Houses 1 and 8 are 4-bed houses, with a stated floor area of c. 122sqm, and bookend the row. Houses 2-7 are 3-bed houses, with a stated area of c. 102sqm. All of these houses are 2-storeys, with a maximum height of 7.5m. The proposed external materials combine a mixture of render and charred timber cladding. The timber cladding is provided to the front and rear elevations of the end of terrace houses (units 1, 4, 5 and 8). The mid terrace units (units 2, 3, 6 and 7) are finished in render. The end of terrace units has a pitched roof feature on the front and rear elevations. The

original design submitted to the planning authority comprised a simpler elevational treatment with a render finish to all units in Blocks A and B with a gable ended roof to the terraces. It is noted that the revised elevations are to address the concerns raised by the planning authority. However, I have serious concerns regarding the proposed materials and elevational treatments and consider that a simpler design would be more appropriate given the proximity of the proposed dwellings to a protected structure. In this regard it is my opinion that the original elevational treatments were more appropriate. While it is noted that render is not a durable or robust material having regard to the nature and scale of the scheme it is considered acceptable in this instance. It is also my view that a high-quality brick would provide an appropriate contrast to the protected structure. The front elevation of the houses in Blocks A and B also include interconnected ground and first floor windows. In my opinion a simpler design approach is appropriate in the site's context.

- 7.4.5. If permission is being contemplated it is recommended that the design of the houses be as originally submitted to the planning authority and final details of the external finish and window positions be agreed with the planning authority.
- 7.4.6. The design approach of Block C is reflective of Blocks A and B, however, its design attempts to respond to their location within the Walled Garden. The terrace comprises 4 no. units with a staggered approach to the building line. Houses 9 and 12 are 4-bed houses (c. 122sqm) and bookend the row. Houses 10 and 11 are 3-bed houses (c 102sqm). It is noted that the drawings submitted with the appeal indicate the internal layout of the ground and first floor level of units 9-12 are the same. This is considered to be an error and it is considered that the internal layout would be similar to that submitted with the original application. This has no impact on my assessment of the scheme. The houses in Block C are also 2-storeys, with a maximum height of 8.3m. The proposed external materials also combine a mixture of render and charred timber cladding. Houses 10 and 12 have a pitched roof feature to the front. As noted above, in my opinion the original design submitted to the planning authority was more appropriate. It is my opinion that these 4 no. dwellings be omitted from the scheme, however, if the Board are minded to grant permission it is my view that the concerns regarding the design approach could be addressed by way of condition.

Density

The proposed scheme, which includes the existing protected structure has a density of 13 units per ha. As noted above, it is my opinion that the Walled Garden should be retained as open space to serve the protected structure only and the 4 no. proposed dwellings within the Walled Garden should be omitted. The western portion of the site, that accommodates the proposed 8 no. dwellings in Blocks A and B has an area of c. 0.361ha. Therefore, this portion of the site has a density of c. 22 units per ha. Table 3.1 of the development plan sets out appropriate density levels as per the Sustainable Residential Development Guidelines. A recommended density of 30 - 40 units per ha is considered appropriate for centrally located sites. Table 2.1 of Volume 2 (Small Towns and Environs Plan) of the Development Plan sets out target residential density is 30-35 units per ha for Prosperous. It is noted that the proposed density is lower than the recommended standard set out in the development plan, however, having regard to the proximity of the development to a protected structure, the backland nature of the site and the surrounding pattern of development, I am satisfied that a density of 22 units per ha, as per my recommendation to omit the 4 no. dwellings in Block C and retain the Walled Garden as private open space, is appropriate and would be in accordance with Policy HO P5 to promote residential densities appropriate to the sites location and surrounding context.

Permeability

- 7.4.7. Vehicular access to the site is proposed from Anne Street with an additional pedestrian link to Brookes Mill residential estate via the Walled Garden. Anne Street is an existing residential street that provides access to a number of residential dwellings. I have no objection to the use of this road to access the proposed development. The proposed pedestrian link through the site towards Brooke Mills is welcomed, however, it is my recommendation that the walled garden remain as private open space to serve the protected structure only. Therefore, resulting in the potential for a pedestrian link being omitted. Having regard to the relatively limited number of houses (8 no.) I have no objection to a single vehicular and pedestrian access from Annes Road only.

Open Space

- 7.4.8. Open Space is proposed in 2 no. areas, with c. 600sqm provided within the Walled Garden to the rear of the protected structure and c. 500sqm provided at the entrance

to the scheme at the site's northern boundary with Annes Street. Section 15.6.6 of the development plan states that for brownfield sites a minimum of 10% of the site should be provided as public open space. The overall site has a stated area of 0.976 ha. Therefore, it is proposed to provide 11% of the overall site as public open space, which is in excess of development plan standards.

- 7.4.9. The western portion of the site, that accommodates the proposed 8 no. dwellings in Blocks A and B includes 500sqm of public open space. This portion of the site has an area of c. 0.361ha. Therefore, c. 14% of this area is public open space. I am satisfied that sufficient quantum of public open space has been provided to serve the 8 no. dwellings in Blocks A and B. I also have no objection to the quality of the public open space, which includes a natural play area, seating and a lawn area which would allow for passive and active uses.

Conclusion

- 7.4.10. It is acknowledged that this is a zoned and serviced backland site in the urban area. However, having regard to the potential negative impacts on the setting of the protected structure, within an Architectural Conservation Area it is my recommendation that the 4 no. dwellings in Block C be omitted and that the Walled Garden be retained as private open space for the protected structure. With regard to the western portion of the site, which previously formed agricultural land and is outside of the curtilage of the protected structure, it is my view that given the current vacant nature of the site and the established pattern of development surrounding the site, it that the provision of 8 no. additional dwelling represents a reasonable response to its context and would support the consolidation of the urban area. It is noted that the proposed development would not be visible from the Maynooth Road. I am satisfied that the proposed scheme would not significantly detract from the visual amenities of this urban area and would not be visually obtrusive.

7.5. ***Residential Amenity***

- 7.5.1. The appeal site is surrounded by existing low density housing estate. To the north it is bound by Annes Street. No 45 Anne Street is a single storey dwelling. The gable end of the existing dwelling is located c. 30m from the gable end of proposed house no. 1 in Block A. To the east the gable end of house no. 12 in Block C is located c. 2m from

the boundary with open spaces and a road within the Brookes Mills residential estate. Having regard to the relatively limited (2-storey) height of the proposed houses, the separation distances from existing dwellings and the orientation of the scheme I am satisfied that it would not result in any undue overlooking or have an overbearing impact on any existing dwelling to the north or east.

7.5.2. To the south west the site is bound by the rear elevation 3 no. houses. These existing house are not shown on the drawings submitted. However, having regard to the information available on Kildare County Councils website (www.kildarecoco.ie) they appear to be approved under Reg. Ref. 18/1405. The rear elevation of proposed houses 9 and 10 in Block C are located c. 24m from the rear elevation of 3 no. 2-storey houses.

7.5.3. Permission was also approved under 18/1405 for 7 no. dwellings, 2 of which (no. 37 and 38) would be located to the rear of proposed houses 11 and 12 in Block C. These approved dwellings are not showed on the drawings submitted. The rear elevation of Block C is located c. 8m from the sites southern boundary. Having regard to the information available on Kildare County Councils website (www.kildarecoco.ie) it would appear that there is a separation distance of c. 16m between the rear elevation of proposed houses 11 and 12 and the rear elevation of approved houses 37 and in the Brookes Mill residential estate to the south east of the appeal site. Having regard to the limited separation distances and directly opposing first floor windows I have concerns that Houses 11 and 12 could result in undue overlooking of the previously approved dwellings. Again it is my recommendation that permission is being contemplated that Block C be omitted from the scheme.

7.5.4. To the west the site is bound by no. 1 and 2 Villa Court, which are single storey dwellings. The rear elevation of proposed Houses 2-5 in Blocks A and B are located c. 11m from the sites boundary and c. 19m from the rear boundary of no. 1 Villa Court. From the information available it would appear that there is a rear extension to a part of No. 1 Villa Court that extends to the site boundary with the appeal site. The rear boundary of proposed House 1 in Block A is located c. 11m from the boundary with open space associated with no. 2 Villa Court. The internal layout of Blocks A and B ensure that there are no windows to habitable rooms on the first floor rear elevation. Having regard to the internal layout I am satisfied that the proposed scheme would not

result in any undue overlooking of existing dwellings to the east. It is acknowledged that the proposed scheme would be visible when viewed from the rear garden of no. 1 and 2 Villa Court. However, it is my view that due to the limited height of the scheme, the separation distances and the urban location and that the scheme would not have an overbearing impact on no. 1 or 2 Villa Court or any existing property.

7.5.5. There is a separation distance of c. 38m between the rear elevation of the protected structure and the front elevation of Block C. I am satisfied that the proposed development would not result in any overlooking or result in an overbearing impact of the protected structure. .

7.5.6. A daylight, sunlight and overshadowing assessment was not submitted with the application. The applicants Planning Report notes that due to the orientation of the proposed dwellings relative to their location and the separation distances achieved from existing dwellings that there would be no daylight / sunlight impacts or overshadowing on any neighbouring residents and a specific assessment was not required.

7.5.7. Given the characteristics of the proposed development, which comprises 12 no. 2-storey houses and the surrounding low density suburban housing the absence of a specific assessment has had no material bearing on my assessment. I am satisfied that considerations of daylight and sunlight have informed the proposed design and layout in terms of separation distances and scale and I would not result undue overshadowing of adjacent properties.

8.0 Appropriate Assessment

8.1. The applicant has submitted an Appropriate Assessment Screening Report prepared by Enviroguide. The Report provides a description of the proposed development, identifies the European Sites within a possible zone of influence of the development and an assessment of the potential impacts arising from the development. The AA screening report concludes on the basis of the best scientific knowledge available, the possibility of any significant effects on any European site, whether arising from the project itself or in combination with other plans and projects, can be excluded.

8.2. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

8.3. *Stage 1 AA Screening*

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

8.4. *Brief Description of the Proposed Development*

A description of the project is summarised in Section 2 of my report. In summary, it is proposed to retain and preserve an existing 2-storey house known as the 'Villa' (protected structure) as a single family dwelling and construct 12 no. 2-storey 3-bed houses in 3 no. terraces. The proposed development includes a new vehicular access to the north of the site from Anne Street and all associated infrastructure.

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

- Nature, scale, timing and duration of works and possible impacts, nature and size of excavations, storage of materials, flat/sloping sites;

- Distance and nature of pathways (dilution and dispersion; intervening ‘buffer’ lands, roads etc.); and
- Sensitivity and location of ecological features

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

European Site Site Code	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Ballynafagh Bog SAC (000391)	Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150]	c. 700m west	Yes. Hydrologically connected via storm water overflow to the Slate River.	Yes
Ballynafagh Lake SAC (001387)	Alkaline fens [7230] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016] Euphydryas aurinia (Marsh Fritillary) [1065]	c. 2.5km west	No	No
Mouds Bog SAC (002331)	Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150]	c. 8.2km south	No	No
Pollardstown Fen SAC (000396)	Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] Petrifying springs with tufa formation (Cratoneurion) [7220]	c. 12km south	No	No

	Alkaline fens [7230] Vertigo geyeri (Geyer's Whorl Snail) [1013] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]			
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8.4.3. The proposed development has no potential source pathway receptor connections to any other European Sites.

8.4.4. As outlined in the table above I am satisfied that the potential for likely significant effects on the qualifying interests of 3 no. sites (Ballynafagh Lake SAC, Mouds Bog SAC and Pollardstown Fen SAC) can be screened out from further assessment due to the nature of the qualifying interests of sites and the intervening distances which are considered sufficient to negate any potential for significant disturbance / displacement impacts.

8.4.5. The applicants report notes that the closet watercourse is a stream, c. 260m west of the appeal site. This stream forms part of the urban drainage network. It is intended that surface water from the appeal site would flow by gravity to the public network under Anne Street to the north of the appeal site. This stream provides a hydrological link between the appeal site and Ballynafagh Bog. On this basis Ballynafagh Bog SAC is subject to a more detailed Screening Assessment.

8.5. *Consideration of the Impacts*

8.5.1. It is considered that there is nothing unique or particularly challenging about the proposed development, either at construction or operational phase.

8.5.2. There are no watercourses within the site. As noted above, there is a distant hydrological link between the appeal site and a portion of the southern boundary of Ballynafagh Bog SAC via the surface water network. Mapping available on the NPWS

website (www.npws.ie) indicates that the bog is raised above the drainage channel / stream. It is also noted that the raised bog is fed by rain water only.

- 8.5.3. Having regard to the limited sized and the localised nature of the proposed construction works the extent of any contaminated surface water run-off is likely to be limited. During the construction phase, standard pollution control measures would be put in place. These measures are standard practices and would be required for a development on any site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Ballynafagh Bog SAC from surface water run-off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 site.
- 8.5.4. The scheme includes attenuation measures which would have a positive impact on drainage from the subject sites. SUDS are standard measures which are included in all projects and are not included to reduce or avoid any effect on a designated site. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and are not mitigation measures in the context of Appropriate Assessment. I also note that the limited size of the proposal would not generate significant demands on the existing public network for surface water.
- 8.5.5. The foul discharge from the proposed development would drain, via the public sewer on Annes Road, to Osberstown WWTP for treatment. The Uisce Eireann website (www.water.ie) notes that there is capacity within the Osbertown WWTP.
- 8.5.6. The site has not been identified as an ex-situ site for qualifying interests of a designated site and I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site, the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.
- 8.1. *Cumulative In-Combination Effects*

8.1.1. Section 3.5.2.6 of the applicant report addresses in-combination effects. I am satisfied that there would be no potential cumulative effects given the nature and scale of the proposed development and the distance to any European sites.

8.2. *AA Screening Conclusion*

8.2.1. It is evident from the information before the Board that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted by the applicant, that the proposed development by itself or in combination with other development, plans and projects in the vicinity, would not be likely to have a significant effect on Ballynafagh Bog SAC (000391), or any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

8.2.2. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.

8.2.3. It is noted that the planners report also concluded on the basis of the best scientific knowledge available, that the possibility of any significant effects on any European sites, whether arising from the project itself of any combination with other plans and projects, can be excluded.

9.0 **Recommendation**

It is recommended that permission be granted subject to conditions.

10.0 Reasons and Considerations

Having regard to the site's zoning objective,, its location within an existing urban area and to the nature and scale of the proposed development it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of built heritage and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 4th October 2021, as amended by further information on the 13th April 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The proposed development shall be amended as follows: -
 - a) The 4 no. dwellings (units 9, 10, 11 and 12) within Block C shall be permanently omitted from the scheme.
 - b) The Walled Garden shall remain as private open space to serve the protected structure only.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to protect the character of the protected structure

3. Prior to commencement of development a schedule of all materials to be used in the external treatment of the houses and the final details of the window positions

on the front elevation of the houses shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

4. The boundary planting and the area of public open space shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before the nursing home is made available for occupation.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

5. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

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

obtained the planning authority's written agreement to the proposed name(s).

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

7. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

8. The developer shall enter into water and waste water connection agreement with Uisce Eireann, prior to commencement of development.

Reason: In the interest of public health.

9. (a) Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services. These arrangements given the nature and use of the proposed development shall include appropriate safety measures.

(b) a Stage 2 - Detailed Design Stage Storm Water Audit shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

(c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate sustainable urban drainage system measures have been installed and are working, as designed, and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

10. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays 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.

Reason: In order to safeguard the residential amenities of property in the vicinity

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

Reason: In the interest of public safety and residential amenity.

12. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: To provide for the satisfactory completion and maintenance of this development.

13. Prior to commencement of development, the developer 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.

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

14. 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.

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

15. 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.

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

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Elaine Power

Senior Planning Inspector

8th January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	314153-22		
Proposed Development Summary	Retention and preservation of the existing Villa house (protected structure) as a private dwelling and the construction of 12 no. 2 storey 3 bed dwellings in 3 terrace blocks and all other associated site works		
Development Address	Curryhills, Prosperous, County Kildare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	
Yes		10 (b)(i): Construction of more than 500 dwelling units	The proposed scheme falls below
			Proceed to Q.4

		<p>10 (b)(iv): Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</p> <p>15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.</p>	the applicable thresholds	
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4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Appendix 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	313893-22	
Development Summary	Retention and preservation of the existing Villa house (protected structure) as a private dwelling and the construction of 12 no. 2 storey 3 bed dwellings in 3 terrace blocks and all other associated site works	
Examination		
		Yes / No / Uncertain
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?		No
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?		No
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?		No
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?		No
Comment (if relevant)		
Conclusion		
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **?		
There is no real likelihood of significant effects on the environment	EIAR not required	X
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required	No
	Sch 7A information submitted?	Yes No
There is a real likelihood of significant effects on the environment	EIAR is required (Issue notification)	

Inspector _____ **Date:** _____

DP/ADP _____ **Date:** _____

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

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

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