



An
Bord
Pleanála

Inspector's Report

ABP-316854-23

Development	Construction of 34 dwellings. A Natura Impact Statement (NIS) was submitted with this application.
Location	Curryhills, Prosperous, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	22/1135
Applicant(s)	Mary Cummins
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Matt and Fidelma Paris
Observer(s)	None
Date of Site Inspection	14 th December 2023
Inspector	Elaine Power

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1.0 Site Location and Description

- 1.1. The appeal site is located at the northern edge of the town of Prosperous, County Kildare. The site is bound to the north by the Prosperous Sewerage Pumping Station and its internal access road and the Slate Stream. Further north are agricultural lands and low density dwellings. To the south the site is bound by Emerson Avenue (public road) and on the opposite side of Emerson Avenue are the rear gardens of 2- storey houses that front onto Emerson Court. To the east the site is bound by Ballynafagh Road (L7095) and to the west it is bound by a greenfield. There is a current appeal (ABP. 314153-22) on the site to the west for permission to construct 94 no. residential units and a creche.
- 1.2. The site has a stated area of 2 ha. It is generally flat and open and comprises of grassland. The site boundaries comprise a mix of timber fencing and hedgerows and trees. There is an existing vehicular access to the site in the north eastern corner of the site, adjacent to the entrance to the Pumping Station.
- 1.3. Ballynafagh Bog SAC (000391) is located c. 500m west of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 33 no. residential units comprising 3 no. detached houses, 26 no. semi-detached houses and 4 no. maisonette units. Vehicular access to the site is proposed from Emerson Court. The development includes the widening of part of the L7095 for the provision of a cycle lane, a linear park, realignment and connection to an existing foul sewer and all associated works to accommodate the scheme.
- 2.2. Following the submission of significant further information, the proposed number of residential units increased to 34.
- 2.3. An NIS was submitted with the application.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 35 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planners report dated 4th November 2022 requested that 12 no items of further information be sought. These items are summarised below: -

1. A revised layout providing a turning areas, bi and bicycle storage, parking spaces and EV charging points.
2. Consider an alternative housing mix.
3. Naming proposals for the scheme.
4. Details of the surface water network.
5. Clarification on proposals to connect to the foul network.
6. Clarify the layout of existing Uisce Eireann infrastructure under the site.
7. Revised Flood Risk Assessment.
8. Clarification on hot presses and storage areas within the Part V units.
9. Re-calculate storage areas to ensure compliance with development plan standards.
10. Provide a road design layout for a link road along the northern and western site boundaries in accordance with development plan Objective PR 8.
11. Submit an Acoustic Design Statement.
12. Submit a Stage 1 and 2 Road Safety Audit.

The response to the request for further information was received on the 8th February 2023. The planning authority considered the further information to be significant and revised notices were submitted on the 14th February 2023.

The planners report dated 3rd April considered that that all items of further information had been adequately addressed and recommended that permission be granted subject to conditions.

3.2.2. *Other Technical Reports*

Water Services: Report dated 11th October 2022 recommended that further information be sought regarding the 3 no. items raised by Uisce Eireann. A report dated 13th October 2022 raised no objection to the proposed development, subject to standard conditions.

Environment Section: Report dated 14th October 2022 raised no objection to the proposed development, subject to standard conditions.

Housing Section: Report dated 20th October 2022 recommended that storage areas be re-calculated to ensure compliance with development plan standards. The report also recommends that a standard Part V condition be attached to any grant of permission. Report dated 23rd February 2023 raised no objection subject to a standard condition.

Kildare Fire Services: Report dated 28th October 2022 raised no objection to the proposed development subject to conditions.

Roads, Transportation and Public Safety Department: Report dated 1st November 2022 recommended that further information be sought with regard to 3 issues. These concerns were reflected in the request for further information. The report dated 3rd April 2023 raised no objection subject to conditions.

Parks Department: Report dated 4th November 2022 recommended that an Arboricultural Assessment be submitted.

3.3. Prescribed Bodies

Uisce Eireann

A submission dated 21st October 2022 recommended that further information be sought with regard to 3 no. items. These items are summarised below and were reflected in the planning authority's request for further information.

1. Demonstrate that existing drain to the west of the site has capacity to accommodate the proposed development.
2. Clarification regarding the proposed foul network.
3. Clarify the layout of the existing foul sewer under the site.

The submission dated 28th February 2023 raise no objection subject to standard conditions.

Department of Housing, Local Government and Heritage, Development Applications Unit (DAU).

The submission dated the 15th March 2023 states that due to the size of the site it is recommended that pre-development archaeological testing be requested by way of further information.

3.4. **Third Party Observations**

5 no. submission was received by the planning authority, in this regard 4 no. during the original application, an additional 1 no. during the further information stage. The concerns raised in the submission are similar to those outlined in the appeal below.

4.0 **Planning History**

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

Reg. Ref. 22/1135: Permission was refused in 2022 for the construction of 94 no. houses on a site immediately west of the appeal site. This decision is currently on appeal (ABP.314153-22).

ABP.304859-23, Reg. Ref. 18/1166: Permission was granted in 2020 for the construction of 49 no. dwellings at a site c. 400m south west of the appeal site. These dwellings are currently under construction.

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

5.0 Policy Context

5.1. *Kildare County Development Plan 2023 - 2029*

- 5.1.1. The appeal site is subject to 2 no. zoning objectives. The vast majority is zoned C: New Residential with the associated land use objective 'to provide for new residential development'. The development plan states that this zoning provides for new residential development and associated ancillary services. Permission may also be granted for home based economic activity within this zone, subject to the preservation of residential amenity and traffic considerations. New residential areas should be developed in accordance with a comprehensive plan detailing the layout of services, roads, pedestrians and cycle routes and the landscaping of open space.
- 5.1.2. The area at the sites northern boundary is zoned F: Open Space and Amenity with the associated land use objective to 'protect and provide for open space, amenity and recreation provision'. The development plan states that areas included in this zoning objective cover both private and public open space and are dispersed throughout the small towns. The aims of this land-use zoning objective are to protect recreation, open space and amenity areas, to maintain and improve amenity lands, to preserve private open space and to provide recreational facilities.
- 5.1.3. The Prosperous Zoning map indicates that the northern portion of the site is at risk of flooding. There is an objective to provide a walking route within a linear park along the site's northern boundary. There is also a Roads Objective to the north of the site.
- 5.1.4. Table 2.1 of Volume 2 (Small Towns and Environs Plan) of the Development Plan sets out the development capacity of Small Towns. Prosperous has a target of 251 no. persons and 91 no. additional units by the end of 2028. The target residential density is 30-35 units per ha with 3 ha of land zoned for residential uses.
- 5.1.5. Section 2.5 of Volume 2 notes that Prosperous has an adequate water supply and waste water capacity to meet the current demands and the future planned growth over the life of this Plan. The following objectives for Prosperous, set out in Volume 2 are considered to be relevant:

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

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

- 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.

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:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024
- Quality Housing for Sustainable Communities: Design Guidelines, 2007
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

5.5. **Natural Heritage Designations**

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

- Ballynafagh Bog SAC (000391) c. 500m west of the appeal site.
- Ballynafagh Lake SAC (001387) c. 2.4km west of the appeal site.
- Mouds Bog SAC (002331) c. 8.4km south of the appeal site.
- Pollardstown Fen SAC (000396) c. 12.1km 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, as submitted by way of further information, comprises the construction of 34 no. residential units and all associated infrastructure on a site with a stated area of 2 ha. The site is located in the urban area (other parts of a built-up area) and is, therefore, below the applicable thresholds. There are no excavation works proposed. Having regard to the relatively limited size and the urban location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would use the public water and drainage services of Uisce Eireann and Kildare County Council, upon which its effects would be marginal.

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

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of the third party appeal are summarised below:

Social Infrastructure

- The reason for refusal (Reg. Ref. 20/1403) on the adjacent site related to a lack of social infrastructure in Prosperous to accommodate the increased population generated by the development. The applicant or Kildare County Council have

not provided adequate infrastructure audit showing the true deficiencies within the town.

- An audit of childcare facilities within the town was carried out as part of the appeal. The results indicate that there is no capacity and significant waiting lists in the town. The proposed development would exacerbate the problem.
- Local schools are also at capacity. A proposed new Post Primary School will not be completed until 2027/2028.
- The bus service is unreliable, with cancelled and delayed buses.
- The proposed scheme in combination with other recently approved scheme would increase the population significantly above the targets set out in the Core Strategy for Prosperous. This level of growth with a lack of adequate social infrastructure would be contrary the provisions of the development plan, to control growth to limit pressure on the environment and unsustainable commuting patterns.
- There has been no change to the level of health care services within Prosperous. There is only 1 GP service in the town.
- Concerns regarding the loss of trees and mature hedgerow on an area of open space along Emerson Avenue.
- Consideration should be given to relocating the access away from Emerson Court.

6.2. Applicant Response

The applicant submitted a detailed response to the appeal, including a bus timetable for Prosperous in Appendix A and details of existing GP practices in 15km of the site in Appendix B. The relevant points of the response are summarised below.

Principle of Development

- Prosperous is identified as a 'town' in the development plan with a role to provide local service and employment functions in close proximity to higher order urban areas.

- The proposed scheme is in accordance with the sites zoning objectives and the specific objectives for the site outline in Volume 2 of the development plan. All technical departments were in support of the development.

Social Infrastructure

- Section 3.4 of the submitted Social Infrastructure Assessment (SIA) provides an analysis of childcare requirements generated by the proposed development. The analysis indicates that there are 4 no. existing childcare providers with 203 no. childcare spaces in Prosperous with a spare capacity of 7 no. spaces in 2023.
- This application does not take account the proposed creche which forms part of a larger residential scheme on the adjacent development, currently under appeal (ABP. 314153-22).
- Based on advice from the Department of Education and Skills (DES) it is assumed that c. 12% of the population would be of primary school age and 9.3% would be of secondary school age. Therefore, the proposed development would generate a requirement for c. 10 no. primary school spaces and 8 no. secondary school spaces. The SIA notes that there is capacity for 14 no. students within the existing primary school and no capacity in the existing secondary school in Prosperous.
- St. Farnan's Post Secondary School is at Stage 2a (Development Sketch Stage). This school will have capacity for 1,000 students and will be completed in 3-4 years. It is unlikely that the development would generate any significant numbers of children at secondary school age before 2028. The additional population arising from the proposed development will be adequately catered for.
- The SIA references a report from the Graduate Medical Educational National Advisory Committee which recommends a standard of 1 no. GP per 4,000 persons. This figure is referenced in Section 4.6.1 of the (previous) Development Plan. Including the proposed development and previously approved applications the town of Prosperous would have a population of c. 2,866 persons. Statistically, 1 no. GP is sufficient for the population. However,

it is acknowledged that the town services a wider hinterland and that there are many factors that determine which medical practice is used. Proximity is only one factor.

- It is not practicable for Prosperous to be entirely self-sufficient in providing a full range of social infrastructure required to create a sustainable community. This is recognised in the Sustainable Residential Development in Urban Areas Guidelines.
- The GP needs of Prosperous do not need to be met in the town. There are a wide range of GP practices within the greater community, with 41 no. practices with 121 no. GP's within 15km of the appeal site. There is also a regional hospital in Naas, a private hospital in Clane and Primary Care Centres in Maynooth, Kilcock, Newbridge, Naas and Clane, all within 15km of the appeal site.
- Smaller towns within Kidare rely on adjacent larger towns with a critical mass to sustain a range of medical facilities, including GP services.
- Any departure from the published timetables and schedules for bus services is a matter for the NTA.

Open Space / Trees

- The proposed development would result in the loss of some semi-mature trees along Emerson Avenue. This 3.5m wide strip of land does not form part of the public open space associated with Emerson Court, it is incidental to the development. The loss of some trees will be adequately compensated for in the area of public open space within the scheme. The proposed development would provide residential units fronting onto Emerson Avenue, which would introduce passive surveillance.
- The applicant is happy to accept a condition to plant trees along Emerson Avenue.

Access

- If the access to the site was relocated to the north (from the L7095) it would impede the pedestrian walkway and public open space along the linear park.

The proposed access is the appropriate location for a vehicular access to this site.

6.3. **Planning Authority Response**

A response was issued on the 17th May 2023 which states that the planning authority has no further comments or observations to make and requests that An Bord Pleanála uphold the decision to grant permission.

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

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

- Principle of Development
- Design Approach
- Social Infrastructure
- Flood Risk
- Archaeology

7.2. ***Principle of Development***

Zoning Objective

The appeal site is subject to 2 no. zoning objectives. The majority of the site is zoned C: New Residential with the associated land use objective '*to provide for new*

residential development'. The area at the sites northern boundary is zoned F: Open Space and Amenity with the associated land use objective to '*protect and provide for open space, amenity and recreation provision*'. The residential element of the scheme is located on lands zoned C: New Residential. A linear park and walkway is proposed on lands zoned F: Open Space and Amenity. I am satisfied that the proposed residential use is in accordance with the sites zoning objectives.

Core Strategy

- 7.2.1. Concerns are raised in the appeal that the proposed scheme in combination with other recently approved scheme would increase the population significantly above the targets set out in the Core Strategy for Prosperous.
- 7.2.2. Table 2.8 Core Strategy Table of the development plan and Table 2.1 of Volume 2 (Small Towns and Environs Plan) sets out a target of an additional 251 no. persons and 91 no. units for Prosperous by the end of 2028, with 3 ha of land zoned for residential uses with a density range of 30-35 units per ha. This target would result in an estimated total population of 2,719 persons by the end of 2028.
- 7.2.3. The proposed scheme comprises 34 no. residential units, with 166 no. bedspaces. It is noted that the applicant and the appellant used the national average household size of 2.7 persons per household to estimate the population generated by the proposed development. However, in my opinion the number of bedspaces is a more appropriate indication of the maximum population that could be accommodated in the scheme.
- 7.2.4. When considering the development in isolation it would not exceed the targets set out in the Core Strategy. There is a current appeal (ABP.314153-22) on the adjacent site, also zoned C: New Residential, for the construction of 94 no. houses and another appeal (ABP. 313893-22) for the construction of 12 no. houses on a site on a site zoned A: Town Centre, c. 300m south of the appeal site. Therefore, in combination with other current appeals there is potential for c. 140 no. additional residential units in Prosperous by the end 2024. It would appear from the information available on the Kildare County Council website that there are no current applications for residential schemes within Prosperous. It is acknowledged that the proposed development in

combination with other proposed development has the potential to exceed the population and unit targets set out in the Core Strategy.

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

7.2.6. The target figures set out in the Core Strategy of 251 no. additional persons and 91 no. additional residential units by the end of 2028 are acknowledged. However, the land use zoning objectives allow for an increased quantum of residential units significantly above that outlined in the Core Strategy. In my opinion the proposed quantum of development proposed would not contravene the provisions of the development plan and should be assessed on its merits.

7.3. ***Design Approach***

7.3.1. The appeal site currently comprises an open field at the northern edge of Prosperous. The proposed scheme, as submitted by way of further information, comprises the construction of 34 no. residential units in 2 no. blocks. The blocks are located on the southern portion of the site and are separated by the proposed internal access road. A linear park / public open space with a walkway is located on the northern portion of the site, which is in accordance with Objective ST P8 (of Volume 2 of the Development Plan) to maximise the potential of the River Slate for tourism and recreational purposes by improving public access to the river, including the provision of a linear park as outlined on Map V2 – 1.4b. The scheme also includes a potential pedestrian link to the lands to the west, which are currently subject to an appeal (ABP. 314153-22) for the construction of 94 no. residential units and a creche.

- 7.3.2. The proposed scheme comprises 28 houses and 6 no. maisonettes. All units are 2-storeys in height. The unit mix comprises 5 no. (14.7%) 4-beds, 23 no. (67.7%) 3-beds, 2 no. (5.9%) 2-beds and 4 no. (11.7%) 1-bed units. There are 10 no. different unit types, ranging in size from a 4-bed (141sqm) detached house to a 1-bed (48.3sqm) maisonette. All typologies are contemporary in design with similar elevational treatments. The predominate external material is render with a stone feature on the front elevation. I have no objection to the proposed external finishes. It is noted that the corner units have been designed as dual aspect corner units, which allows for passive surveillance of streets and public spaces. This design feature is welcomed.
- 7.3.3. The Housing Mix Statement submitted with the appeal indicates that all houses reach and exceed the minimum requirements set out in the Quality Housing for Sustainable Communities Guidelines and the maisonettes reach and exceed the standards set out in the Apartment Guidelines. It is noted that all units are dual or triple aspect.
- 7.3.4. It is noted that Objective ST P18 (of Volume 2 of the Development Plan) requires the reservation of land for a proposed link road to the northwest and northeast of the town between the Ballynafagh Road and the R403. It is noted that the indicative route is shown to the north of the appeal site, on the opposite side of the Slate River. I am satisfied that the proposed development would impede the delivery of the road as outlined on Map V2 – 1.4b.
- 7.3.1. I have no objection in principle to the proposed design and layout of the scheme and consider it reflective of the established pattern of development to the south of the site. It is noted that no concerns were raised by the planning authority regarding the design and layout of the scheme.

Density

- 7.3.2. The appeal site has a stated area of 2 ha, with a net developable area of 1.34 ha. This figure excludes the area zoned for Open Space and Amenity. The scheme comprises 34 no. residential units and therefore has a density of c. 25 units per ha. Table 2.8 Core Strategy and Table 2.1 of Volume 2 (Small Towns and Environs Plan) of the Development Plan sets out a target residential density is 30-35 units per ha in

Prosperous. Therefore, the proposed density is below the recommended target set out in the development plan. It is noted that this target does not relate to a policy of the development plan, and therefore in my view is not a material contravention of the development plan.

- 7.3.3. Table 3.6 of the Sustainable Residential Development and Compact Settlements Guidelines sets out density ranges of 25 – 40 units per ha for greenfield lands at the edge of small to medium sized towns, on lands that are zoned for residential or mixed uses development. Therefore, although at the lower end, the proposed density is within the recommended targets set out in the Guidelines.
- 7.3.4. In addition, Policy HO P5 of the development plan aims to promote residential densities appropriate to the sites location and surrounding context. The site is located on zoned and adequately serviced lands in the urban area, in close proximity to a range of services and amenities in Prosperous and the surrounding environs. It is also served by the 120(x/a/e/f) bus route which provides connectivity between Edenderry and Dublin city centre and UCD, via Newbridge. The timetable for the 120 is included as Appendix A with the response to the appeal. This indicates a high frequency service in the AM and PM peak periods. Concerns are raised in the third party appeal regarding the reliability of the public transport network in Prosperous. While this is noted, I agree with the applicant that any concerns regarding deviations from the published timetables and schedules are outside of the control of the applicant.
- 7.3.5. Overall, given the sites location and proximity to public transport it is my view that the appeal site is capable of accommodating a higher density, in the range of 30-35 units per ha, as recommended in the development plan. However, having regard to the established pattern of development in the wider environs of the appeal site I am satisfied that the proposed density is acceptable and in accordance with the provisions of Policy HO P5 and Table 3.6 of the Sustainable Residential Development and Compact Settlements Guidelines.

Access

- 7.3.6. It is proposed to provide the main vehicular access to the site from Emerson Court, at the site's southern boundary. The layout of the scheme also provides for c. 12 no. driveways directly onto Emerson Court and 4 no. driveways onto Ballynafagh Road

(L7095), at the site's eastern boundary. The third party raised concerns regarding the location of the vehicular access to the site from Emerson Court and considered that it would be more appropriate to locate the access from the site's eastern boundary, with Ballynafagh Road (L7095), so that the existing and proposed housing estates could retain a separate identity.

7.3.7. Due to the layout of Emerson Court, there are no houses fronting onto the northern section of the road (c. 220m in length) from its junction with Ballynafagh Road. This section of the road is bound to the south by the high wall of rear gardens of existing dwellings in Emerson Court and to the north by the appeal site. In my opinion the proposed access and the provision of dwellings fronting onto this section of Emerson Court would improve the visual amenity of this suburban area and aid with placemaking and legibility. I also agree with the applicant that the design and layout is in accordance with the provision of DMURS and that the provision of housing fronting onto the road would provide passive surveillance, which is welcomed.

7.3.8. It is also noted that relocating the vehicular access to the site's eastern boundary would negatively impact on the proposed linear park and associated public open space.

7.3.9. I have no objection to the location of the proposed vehicular entrance and consider it appropriate to serve the nature and scale of the proposed scheme.

Open Space

7.3.10. The proposed development incorporates an area of public open space on the northern portion on lands zoned for Open Space and Amenity (c. 6,500sqm). This area of open space would comprise a linear park with a walkway and cycle route in accordance with Objective ST P8 (of Volume 2 of the Development Plan) to maximise the potential of the River Slate for tourism and recreational purposes by improving public access to the river, including the provision of a linear park as outlined on Map V2 – 1.4b. The linear park, which runs to the south of the Pumping Station, is designed to connect to the adjoining site to the west, currently under appeal (ABP.314153-22) which also incorporates a linear park. It is noted that this area of public open space is not included in the calculation of public open space for the residential scheme.

- 7.3.11. It is also proposed to provide 1,960sqm of public open space, on lands zoned C: New Residential. This area is immediately south of the lands zoned F: Open Space and Amenity and the area of public open space would appear as a single park.
- 7.3.12. Section 15.6.6 of the development plan states that on greenfield sites a minimum of 15% of the total site area shall be provided as open space. This is generally in accordance with the provisions of Policy and Objective 5.1- Public Open Space of the Sustainable and Compact Settlements Guidelines which sets out a range of 10% - 15% of the net site area as public open space. The proposed scheme incorporates 1,960sqm of public open space, which equates to c. 15% of the net developable area (1.35ha). A total of c. 8460sqm of public open space is proposed within the scheme, in this regard 6,500sqm of land zoned for Open Space and Amenity and 1,960sqm on land zoned for New Residential. The combined area of open space equates to c. 42% of the total site area (2ha). The public open space is designed to create defined zones for various activities including play areas, kick about areas, exercise stations and passive recreations as well as enhancing the biodiversity of the area with wild grass meadows. The existing hedgerow along the river would also be retained and further enhanced with additional tree planting. The area of open space is overlooked by the proposed dwellings, which is a welcome design response as it allows for passive surveillance. I have no objection to the quantity or quality of the public open space proposed and consider that it would provide a significant amenity for the wider environs of Prosperous.
- 7.3.13. Concerns were raised by the third party regarding the loss of trees along the northern side of Emerson Court to facilitate the proposed development. The Landscape Masterplan drawing indicates that c. 28 no. semi-mature trees would be removed on Emerson Court to facilitate the development. It is stated that these trees are not suitable for re-planting due to their current size and high risk of failure. To facilitate the proposed development, it is also proposed to remove the existing hedgerow along the site's eastern boundary with Ballynafagh Road. While the loss of trees and hedgerow is regrettable it is proposed to provide a significant level of planting within the area of public open space. In my opinion the proposed level of planting adequately compensates for the loss of existing trees and hedgerow and is acceptable in this instance.

Residential Amenity

- 7.3.14. The appeal site is not immediately bound by any existing residential properties. The rear gardens of existing dwellings in Emerson Court are located c. 60m from the front elevation of the proposed dwellings and the gable end of proposed dwelling no. 33 is located a minimum of c. 75m from the dwellings in the proposed scheme to the west (currently on appeal ABP.314153-22). No concerns were raised in the observation or by the planning authority regarding a negative impact on existing residential amenity.
- 7.3.15. The proposed scheme is laid out in a grid pattern with a minimum of c. 30m separation distances between the rear elevations of the proposed dwellings. SPPR 1- Separation Distances of the Sustainable and Compact Settlement Guidelines requires a minimum separation distance of 16m is provided between opposing windows serving habitable rooms above ground floor level. It further states that a separation distance below 16m may be considered acceptable in certain circumstances.
- 7.3.16. Having regard to the limited (2-storey) height of the proposed residential units, the separation distances between existing and proposed dwellings and the orientation of the scheme I am satisfied that it would not result in any undue overlooking or have an overbearing impact on any existing dwellings.
- 7.3.17. A daylight, sunlight and overshadowing assessment was not submitted with the application. Section 5.3.7 of the Sustainable and Compact Settlements Guidelines notes that the provision of acceptable levels of daylight in new residential developments is an important planning consideration. However, planning authorities do not need to undertake a detailed technical assessment in relation to daylight performance in all cases and that in the case of low-rise housing with good separation distances, it should be clear from the assessment of architectural drawings that undue impact would not arise. Given the characteristics of the proposed development I am satisfied that it would not result in overshadowing of any existing or proposed residential dwellings and a technical assessment of daylight, sunlight and overshadowing performance is not necessary in this instance.

Conclusion

7.3.18. In conclusion, I am satisfied that the proposed scheme would provide a positive contribution to the area and would support the consolidation of the urban environment. Therefore, I have no objection to the proposed design approach and consider it represents a reasonable response to its context.

7.4. Social Infrastructure

7.4.1. The third party raised concerns that in combination with other schemes Prosperous does not have the social infrastructure to accommodate the proposed development and makes reference to Objective SC O15 of the development plan which requires that community facilities are provided in new communities on a phased basis in tandem with the provision of housing.

7.4.2. A Social Infrastructure Assessment (SIA) was submitted with the application and the findings of the report are noted in the applicant's response to the appeal. The SIA indicates that Prosperous currently has adequate community and social infrastructure to cater for the population. The third party raised particular concerns with regard to childcare facilities, schools and health services.

Childcare facilities

7.4.3. Section 3.3.1 of the Childcare Facilities Guidelines states that in relation to new housing areas, 1 no. childcare facility providing for a minimum 20 no. childcare places per approximately 75 no. dwellings may be appropriate. This is a guideline standard and will depend on the particular circumstances of each individual site. The proposed scheme comprises 34 no. residential units. Having regard to the provisions set out in the Childcare Guidelines the scheme would generate a demand for 9 no. childcare spaces. It is not proposed to provide a childcare facility within the scheme. Having regard to the provisions of the Childcare Guidelines this is considered acceptable.

7.4.4. Table 3.2 of the SIA indicates that there are 4 no. childcare facilities with c. 203 no. spaces with spare capacity for 7 no. children. The third party states that they carried out a survey and there is no spare capacity within these existing facilities.

- 7.4.5. The 2022 census (www.cso.ie) states that there are 170 no. children aged between 0-4 living in Prosperous (electoral division), which includes the rural hinterland surrounding the town. The census also states that nationally 56% of children aged 0-4 are cared for in a creche / Montessori / playgroup / afterschool. Using these figures, therefore, there is potential for c. 95 no. children (56% of 170) in Prosperous to require a childcare place. However, it is acknowledged that proximity is only one consideration when choosing a childcare facility and that the existing facilities, which have capacity for 203 no. children, may be serving a wider catchment area.
- 7.4.6. The conflicting information provided by the applicant and the appellant regarding the spare capacity with the existing childcare facilities is noted. However, given the limited demand likely generated by the proposed development and the existing services available within the town, I am satisfied that the proposed scheme would not have a significant negative impact on the existing childcare facilities within the town and that the demand generated by the scheme could likely be accommodate within the town or its wider environs. It is also noted that there is no requirement under the Childcare Guidelines to provide a creche to serve the proposed development and there is no objective within the development plan to provide a community / social use within the site. Therefore, I am satisfied that the proposed development is in accordance with the provision of the development plan.
- 7.4.7. With regard to concerns raised regarding the cumulative impact of the proposed development. It is acknowledged that there is a proposed scheme on the adjacent site for 94 no. residential units. However, this scheme includes a creche with capacity for 25 no. children. In my opinion the demand generated by the proposed development on the adjacent site (ABP.314153-23) would be adequately catered for in the proposed childcare facility within the scheme.

Schools

- 7.4.8. There is an existing primary c. 600m south of the appeal site. The Prosperous National School website (www.prosperousns.ie) states that the current enrolment in the school is 511 pupils. The capacity of the school is not provided, however, the applicants SIA estimates that Prosperous National School has a capacity of c. 600 students. This figure is based of the number of classrooms (20 no.) and a maximum capacity of 30

no. pupils per class. This is considered a reasonable assumption. Therefore, I am satisfied that there is sufficient capacity to accommodate the likely demand for primary school places generated by the proposed development.

7.4.9. There is also an existing post primary school (St. Farnan's) c. 600m south of the appeal site. The applicants SIA notes that this school is currently at capacity and that there are proposals to construct a new 1,000 student school on a greenfield site to the south of the existing school building. The school is listed as being at stage 2(b) – detailed design on the Department of Education website (www.gov.ie) which was updated in November 2023. The applicant states that it is envisioned that this school would be completed in 3-4 years. Given, the estimated timeframe to deliver the proposed residential scheme it is unlikely that the development would generate any significant demand for secondary school places before the new school is operational (2028).

7.4.10. It is also noted that proximity to a school is only one consideration. I am satisfied that the likely demand generated by the proposed development could be accommodate within the town or its wider environs.

Health Care

7.4.11. Section 10.14 Health Services of the development plan notes that access to health services is very challenging in Kildare with variations in terms of the level of GP services across the county. The plan further notes that the provision of health care services in County Kildare is ultimately the responsibility of the Health Service Executive (HSE) along with other private and voluntary agencies and that the primary role of the Council in healthcare provision is to ensure that there are adequate lands available in development plans and local area plans to provide for new facilities and the expansion of existing facilities.

7.4.12. The appeal site is zoned C: New Residential with Medical Consultant / Health Centres Open for Consideration under this zoning objective. Medical Consultant / Health Centres are Permissible on lands zoned A: Town Centre, E: Community and Education and Q: Enterprise and Employment, where these uses are considered most appropriate. It is also noted that there are no specific objectives on the appeal site to provide a community use.

- 7.4.13. The information submitted indicates that there is 1 no. existing GP in Prosperous. The applicant references a report from the Graduate Medical Education National Advisory Committee which recommends a standard of 1 no. GP per 4,000 persons. As noted in the appeal, this figure is also referenced in the Athy Local Area Plan 2021 – 2027 (Section 4.6.1) and in my view is considered reasonable.
- 7.4.14. As noted above the 2022 census states that Prosperous (electoral division) had a population of 3,091, which includes the rural hinterland of the town. Based on the number of bedrooms proposed it is my view the proposed scheme has the potential to accommodate c. 166 no. additional persons. Therefore, potentially increasing the population of Prosperous to c. 3,257. Statistically, 1 no. GP is sufficient to serve the town and its hinterland, including the potential population increase generated by the proposed development and other developments proposed in the town. However, it is acknowledged that proximity to a GP is not the only factor, and the existing facility may serve a wider catchment and be at capacity.
- 7.4.15. Prosperous is identified in the settlement hierarchy as a ‘town’ with local services and employment functions in close proximity to higher order urban areas. Section 10.14 of the development plan also states that proposals relating to healthcare facilities should reflect the County’s Settlement Hierarchy and be accessible and integrated into communities. I agree with the applicant that due to the town’s designation with the settlement hierarchy there is no requirement for all social needs to be met within the town.
- 7.4.16. The appeal site is located c. 4km west of Clane, which as noted in the appeal has 7 no. GP practices with c. 21 no. GP’s, 1 no. Primary Care Centre and 1 no. private hospital. The response to the appeal notes that there are a total of 41 no. GP practices with 121 no. GP’s within 15km of the appeal site. Section 10.14 of the current development plan notes that a Primary Care Centre would support a population of 7,000 – 10,000 persons. There are 5 no. Primary Care Centres within 15km of the appeal site in Maynooth, Kilcock, Newbridge, Naas and Clane. There is also a regional hospital in Naas. Having regard to the information submitted I am satisfied that there is sufficient health care available within the wider area to serve the proposed development and other proposed schemes in the town.

Conclusion

7.4.17. While it is acknowledged that that population of Prosperous is increasing I am satisfied that the proposed scheme comprising 34 no. residential units would not unduly exacerbate demands on the Social Infrastructure of the town and that the level of childcare facilities, educational facilities and healthcare are appropriate to Prosperous designation as a 'town' within the County's Settlement Hierarchy. I am also satisfied that the proposed development does not contravene materially Objective SC O15 of the development plan.

7.5. Flood Risk

7.5.1. Map V2. 4b of Volume 2 of the development plan indicates that the northern and western portions of the site are at risk from flooding. The area at risk generally relates to the lands zoned for Open Space and Amenity. However, the western portion of the site is zoned New Residential, and the proposed layout proposes to provide c. 7 no. residential units on the area at risk of flooding. In accordance with objective ST P23 of Volume 2 of the development plan a site-specific flood risk assessment has been submitted.

7.5.2. The Kildare County Strategic Flood Risk Assessment, as shown in figure 8 of the applicants FRA, indicates that the northern and western boundaries are at risk from flooding from the Slate River and a drainage ditch. Flood Risk zones are determined on the probability of river and coastal flooding only, other sources do not affect the delineation of flood risk zones.

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

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

Fluvial Flooding: The Slate River is located at the sites northern boundary and there is a drainage ditch at the site's western boundary. The primary potential flood risk to the proposed development is from an extreme fluvial flood event in the Slate River or the drainage ditch.

Pluvial Flooding: Due to the topography of the site it is not considered to be at risk from pluvial flooding. The proposed drainage infrastructure, which includes SuDS, will

control the discharge rate of surface water runoff and limit the outflow from the site to the existing greenfield scenario. The site is not considered to be at risk from pluvial flooding.

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

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

7.5.4. The Planning System and Flood Risk Management Guidelines, 2009 outlines in Table 3.1 the 'vulnerability of different types of development'. The proposed development is residential in nature and, therefore, classified as 'Highly Vulnerable Development'. It is noted that the majority of the site is located in Flood Zone C, however, in my opinion a Justification Test is required in accordance with the guidelines.

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

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

The site is subject to 2 no. zoning objectives. The southern portion of the site is generally zoned C: New residential and the northern portion is generally zoned F: Open Space and Amenity. There is no residential development proposed on lands Zoned F: Open Space and Amenity. The zonings reflect the areas identified in the Strategic Flood Risk Assessment (SFRA) as being located in Flood Zones A and B.

Objective GO 28 of Volume 2 of the development plan aims to ensure that all proposed developments are carried out in accordance with "The Planning System and Flood Risk Management" – Guidelines for Planning Authorities, DEHLG (2009) with respect to flooding.

I am satisfied that the proposed development is in accordance with criteria 1.

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

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

The modelling submitted with the FRA indicates that there would be no significant increase in fluvial flood levels of extents when comparing the baseline and the proposed development either in the 1 in 100 year fluvial flood event (Flood Zone A), 1 in 100 year fluvial flood event plus climate change or the 1 in 1,000 year fluvial flood event (Flood Zone B).

It is my opinion that the proposed development would not increase the risk of flooding elsewhere. I am satisfied that the proposed development is in accordance with criteria 2(i).

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

The finished floor levels of the proposed residential development would be a minimum of 500mm above the 1 in 1,000 year fluvial flood event level in the Slate River. As noted above, there is no significant increase in fluvial flood levels or extents when comparing the baseline and the proposed development either in the 1 in 100 year fluvial flood event (Flood Zone A), 1 in 100 year fluvial flood event plus climate change or the 1 in 1,000 year fluvial flood event (Flood Zone B). I am satisfied that the proposed development is in accordance with criteria 2(ii).

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

It is proposed that the access road be constructed to a minimum level of 85.784m OD to allow a freeboard of 200mm. The finished floor level of the residential units would also be constructed to a minimum level of 86.084m OD to provide a freeboard of 500mm. Emergency vehicle access would not be impeded during a flood event.

It is my view that adequate measures have been provided as part of the development to ensure that residual risks to the area and the development can be managed to an acceptable level and that the proposed development is in accordance with criteria 2(iii).

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

The majority of the proposed development is located on zoned and adequately serviced land and is contiguous to existing residential developments in Prosperous. It is my opinion that the proposed development generally contributes to the wider objective of consolidating the urban environment and incorporates high quality urban design which would support and enhance the development of the area. The proposed application is considered to be in accordance with criteria 2(iv).

7.5.6. It is my opinion that the proposed development satisfies each of the criteria set out in the justification test, in this regard the residential uses are proposed on residentially zoned lands and contributes to the wider objective of consolidating the urban environment. The scheme has also been subject to a site specific FRA. The FRA includes a number of flood mitigation measures, in particular it is noted that the finished floor levels of the development would be raised above the estimated 1 in 1,000 year flood level, no development would occur within 1a flood zoned. Having regard to the information submitted I am satisfied that the proposed arrangements would not result in a potential flood risk within the site or to any adjoining sites and I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified. It is noted that no concerns regarding a flood risk were raised by the planning authority or the third party.

7.6. **Archaeology**

- 7.6.1. An Archaeological Assessment has not been submitted with the application. The submission from the DAU notes that due to the scale, extent and location of the proposed development that it is possible that there is unknown archaeological remains, that could be disturbed during the groundworks required for the proposed development. The submission recommends that archaeological monitoring be included as a condition to any grant of permission. This is considered reasonable and it is my recommended that an archaeological monitoring condition be attached to any grant of permission.

8.0 **Appropriate Assessment**

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

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

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

8.3. **Stage 1 AA Screening**

- 8.3.1. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to

have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Brief Description of the Proposed Development

- 8.3.2. A description of the project is summarised in Section 2 of my report. The applicants report states that the proposed development comprises the construction of 33 no. residential units, as noted above the number of units increased to 34 following a request for further information. I am satisfied that addition of 1 no. residential unit has a negligible impact on the findings of the NIS. The surrounding area is urban in nature. The site is serviced by public water supply and foul drainage networks. The development site is located in a heavily urbanised environment close to noise and artificial lighting. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site. The Slate River is located to the northern of the site, on the opposite side of the access road to the Prosperous Sewerage Pumping Station. A drainage ditch runs along the sites western boundary, which discharges into the Slate River

Zone of Influence

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

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

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

<i>European Site Site Code</i>	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. 500m west	Yes. Hydrologically connected via the Slate River and Curryhills Stream.	Yes
Ballynafagh Lake SAC (001387)	Alkaline fens [7230] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016] Euphydryas aurinia (Marsh Fritillary) [1065]	c. 2.4km 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. 8.4km south	No	No
Pollardstown Fen SAC (000396)	Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]	c. 12.1km south	No	No

	Petrifying springs with tufa formation (Cratoneurion) [7220] Alkaline fens [7230] Vertigo geyeri (Geyer's Whorl Snail) [1013] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]			
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8.3.5. The proposed development has no potential source pathway receptor connections to any other European Sites.

Identification of likely effects

8.3.6. *Ballynafagh Bog SAC (000391)*: The development site is not located within the SAC. Therefore, it would not result in temporary loss, disturbance or disruption of habitat. However, there is potential for effects on the SAC relating to construction discharges with the potential to cause a release of suspended solids and hydrocarbons into the hydrologically connected Slate River and / or Curryhills Stream, which has the potential to cause indirect effects on the water dependant species and habitats of the SAC through a reduction in water quality.

8.3.7. Given the proximity (c. 500m) and the hydrologically connection between the appeal site and Ballynafagh Bog SAC it is my view that in the absence of mitigation measures, it is not possible to rule out impacts which could negatively impact on qualifying interests of the SAC.

8.3.8. As outlined in the table above I am satisfied that the potential for impacts on the Ballynafagh Lake SAC (001387), Mouds Bog SAC (002331) and Pollardstown Fen SAC (000396) can be excluded at the preliminary stage due to the separation distance between the European site and the proposed development site, the nature and scale of the proposed development, the absence of a hydrological link and an absence of

relevant qualifying interests in the vicinity of the works and to the conservation objectives of the designated sites.

Screening Determination

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

8.4. *The Natura Impact Statement*

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

Appropriate Assessment of implications of the proposed development

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

- 8.4.3. I have relied on the following guidance:

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

- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC

Ballynafagh Bog SAC

- 8.4.4. Section 12 of the NIS provides a detailed description of the Ballynafagh Bog SAC. Appendix III includes a copy of the Site Synopsis and Appendix IV includes the sites Conservation Objectives, this information is also available on the NPWS website (www.npws.ie).
- 8.4.5. Table 1 below summarises the appropriate assessment and integrity test for the SAC. The conservation objectives, targets and attributes as relevant to the identified potential adverse effects have been examined and assessed in relation to all aspects of the project (alone and in combination with other plans and projects). I have also examined the Natura 2000 data forms as relevant and the conservation objectives supporting documents for the sites. Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed. In terms of possible in-combination effects, plans, programmes and existing and proposed developments were considered. This allows for clear, precise and definitive conclusions to be reached in terms of adverse effects on the integrity of European sites.

Ballynafagh Bog SAC**Key issues that could give rise to adverse effects includes: -**

- Direct Impact on Water Quality

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

Qualifying Interest feature	Conservation Objective	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Active raised bogs [7110]	To restore the favourable conservation condition of Active raised bogs in Ballynafagh Bog SAC	Changes to water quality from construction practices or accidental release or spillage.	No protective measures are required to prevent the proposed development from having an adverse effect on the SAC, due to the lack of a pathway.	No effects	Yes
Degraded raised bogs still capable of natural regeneration [7120]	The long-term aim for Degraded raised bogs still capable of natural regeneration is that its peat-forming capability is re-established; therefore, the conservation objective for this habitat is inherently linked to that of Active raised bogs (7110) and a separate conservation objective			No effects	Yes

	has not been set in Ballynafagh Bog SAC				
Depressions on peat substrates of the Rhynchosporion [7150]	Depressions on peat substrates of the Rhynchosporion is an integral part of good quality Active raised bogs (7110) and thus a separate conservation objective has not been set for the habitat in Ballynafagh Bog SAC			No effects	Yes

- 8.4.6. Section 13 of the NIS notes that there is a hydrological link between the appeal site and Ballynafagh Bog SAC. Therefore, any pollutants that enter the river would flow downstream towards the southern boundary of the SAC.
- 8.4.7. As outlined in the table above, Ballynafagh Bog SAC is designated for the protection of three raised bog habitats, which are intrinsically linked. The NIS notes that the development of raised bogs results in a habitat that is fed by rainfall, is low in nutrients and acidic in nature. As this habitat is raised above the surrounding landscape it is disconnected from groundwater, rivers and streams. It is noted that the raised bog habitat is also separated from the watercourse by grassland. The direction of flow of water is from the high bog, where the three Qualifying Interests of the SAC are located, to groundwater or to the Slate River. There is no potential for pollutants from the proposed development site to interact with any of the raised bog habitats. Therefore, there is no potential for any adverse effects.

In-combination Effects

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

8.5. *Appropriate Assessment Conclusion*

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

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

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

9.0 Recommendation

- 9.1.1. It is recommended that permission be granted subject to conditions.

10.0 Reasons and Considerations

Having regard to the zoning objectives of the subject site, 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 traffic safety and flood risk. 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 16th September 2022 as amended by the further plans and particulars submitted on the 3rd February 2023, 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. Mitigation and monitoring measures outlined in the plans and particulars, including the Site Specific Flood Risk Assessment, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors 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. 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.

5. The scheme shall be landscaped in accordance with the landscape scheme submitted to the Planning Authority on the 18th day of November 2022 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 substantial completion of the external construction works. All planting shall be adequately protected from damage until established. Any trees, plants or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. Unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

6. 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 -
- 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,
 - b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.
 - d) In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: 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.

7. 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 apartment 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.

8. 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.

9. The developer shall enter into water and waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

10. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

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.

11. 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

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be 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.

Reason: In the interest of sustainable waste management.

13. 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, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

14. Prior to the commencement of the development of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority pursuant to Section 47 of the Planning and Development Act 2000, that restricts any such residential units permitted (the number and location of each housing unit being specified in such agreement), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

15. 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.

16. 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

17. 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

22nd January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	316854-23		
Proposed Development Summary	Construction of 34 no. residential units		
Development Address	Curryhills, Prosperous, Co. Kildare.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion
No	N/A		No EIAR or Preliminary Examination required
Yes	10 (b)(i): Construction of more than 500 dwelling units	The proposed scheme falls below	Proceed to Q.4

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

Inspector: _____

Date: _____

Appendix 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	316854-2		
Development Summary	The construction of 34 no. residential units.		
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