

[REDACTED]

9<sup>th</sup> September 2019.

**By Registered Mail**  
An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1, D01 V902.



Dear Sir/Madam,

**ABP Ref. PL17.307652: Proposed Construction of the Boyne Greenway, pedestrian and cycleway linking Drogheda Town in Co. Louth to Mornington Village in Co. Meath**

I refer to Meath County Council's application of 17<sup>th</sup> July 2020 to An Bord Pleanála regarding the above proposal. I am a fifth-generation resident of Mornington and will be directly impacted by the proposed development, should it proceed. I would like to draw the following information to the Board's attention and request its consideration as part of the official assessment.

My submission centres on three main issues, namely (1) Preservation of the Special Protection Area 4080 and Special Area of Conservation 1957; (2) Safety, privacy, security and devaluation of property along the proposed route; and (3) similar cases.

**1. Preservation of the Special Protection Area and Special Area of Conservation**

Two thirds of the proposed development are located on the Boyne Estuary Special Protection Area (Site Code: 004080), with the proposed development terminating at the Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957).

The proposed development specifically contravenes the conservation objectives and guiding principles of SAC 4080 and SPA 1957, as set out by the National Parks and Wildlife Service (NPWS), the State authority with responsibility for protecting birds and habitats under the EU Birds Directive and EU Habitats Directive. NPWS note the following:

- "The overarching Conservation Objective for Boyne Estuary Special Protection Area is to ensure that waterbird populations and their wetland habitats are maintained at, or restored to, favourable conservation condition. This includes, as an integral part, the need to avoid deterioration of habitats and significant disturbance; thereby ensuring the persistence of site integrity. The site should contribute to the maintenance and improvement, where necessary, of the overall favourable status of the national resource of waterbird species, and continuation of their long-term survival across their natural range.

- Under Article 4 of Directive 2009/147/EC, Member States are required to pay particular attention to the protection of wetlands, especially those of international importance. The wetland habitats contained within Boyne Estuary SPA are identified as of conservation importance for non-breeding (wintering) migratory waterbirds. Therefore, the wetland habitats are considered to be an additional Special Conservation Interest.
- The boundary of Boyne Estuary SPA was defined to include the primary wetland habitats of this site. Conservation objectives seek to maintain the permanent extent of these wetland habitats, which constitute an important resource for regularly-occurring migratory waterbirds.
- There should be no significant decrease in the range, timing or intensity of use of areas by the waterbird species of Special Conservation Interest, other than that occurring from natural patterns of variation.
- Factors that can adversely affect the achievement of conservation objectives include habitat modification: activities that modify discrete areas or the overall habitat(s) within the SPA in terms of how one or more of the listed species use the site (e.g. as a feeding resource) could result in the displacement of these species from areas within the SPA and/or a reduction in their numbers; and Disturbance: anthropogenic disturbance that occurs in or near the site and is either singular or cumulative in nature could result in the displacement of one or more of the listed waterbird species from areas within the SPA, and/or a reduction in their numbers.
- It is recommended that assessments that are examining factors that have the potential to affect the achievement of the site's conservation objectives should also consider the use of 'ex-situ' habitats, and their significance to the listed bird species.
- The dune system is highly calcareous and the high calcium content of the dune system is considered unusual especially on the east coast. The fixed dunes are more established and show greater diversity in structure and species than the neighbouring dunes at Baltray, which are contained within the same SAC. It is also the most northerly site for the rare plant species *Salvia verbenaca*.
- Two dune slacks are noted in Mornington in the conservation plan. These slacks are noted for *Echium vulgare* (Viper's bugloss), *Equisetum variegatum* (Variegated Horsetail) and *Ophioglossum vulgatum* (Adder's tongue). These are locally rare plants in Ireland and are considered indicators of local distinctiveness at this site.
- The remaining fixed dune within the site is under severe recreational pressure mainly due to the ease of access to the site. The dune slack is very susceptible to disturbance due to its close proximity to one of the main access routes to the dunes. It is currently under intense recreational pressure especially from trampling.
- The EU conservation status of the extent of fixed dune at Mornington is rated as unfavourable-inadequate. This is based on best scientific judgement. As all of the developments at the site are excluded, currently the main impact on the extent of the fixed dunes is human induced erosion due to recreational activities. The estimated area of bare sand currently accounts for greater than 10% of the fixed dune habitat".

The Selected Species for SPA 4080 are Golden Plover (*Pluvialis apricaria*), Knot (*Calidris canutus*), Black-tailed Godwit (*Limosa limosa*), Turnstone (*Arenaria interpres*), Shelduck (*Tadorna tadorna*), Oystercatcher (*Haematopus ostralegus*), Grey Plover (*Pluvialis squatarola*), Lapwing (*Vanellus*

*vanellus*), Sanderling (*Calidris alba*), Redshank (*Tringa totanus*). All of these species have been recorded this year in the SPA, as indicated in Appendix 1 attached (a 500mm lens was used in order to ensure wildlife were not disturbed in any way). In addition, Curlew (*Numenius*) and Brent Geese (*Branta bernicla*) have also been recorded in this small area, and it is assumed that they can also be found in the remainder of the SPA which is not currently accessible to the public, but will be if the proposed development proceeds.

An Bord Pleanála's Inspector's Report in case 302948-18 recommended refusal of planning permission for a caravan park beside the SPA and SAC because, in addition to other environmental reasons, "The designated area supports a population of the rare snail, *Helix pisana*, in Ireland known only from the coast between counties Louth and Dublin".

Regardless of the mitigations proposed and timing of works, construction of the proposed development, which includes building walk/cycleways, boardwalks, a bridge, etc., will adversely impact the SPA and SAC and have an immediate detrimental impact on the Annex 1 and other species. The operation of the proposed development will then have long-term detrimental impacts on both areas. As part of NPWS assessment of events and activities that occur in SPA 4080, it was noted that ".... using the standard EU list of pressures and threats as used in Article 17 reporting under the EU Habitats Directive..... only factors likely to directly or indirectly affect waterbirds were included but the resulting list is broad and includes built elements (e.g. man-made structures such as roads and bridges that are adjacent to the site), factors associated with pollution (e.g. discharges from waste water treatment plants), various recreational and non-recreational activities as well".

The 1.5m-raised, 4m-wide boardwalk at the intertidal mudflats at Mornington will directly impact on the feeding and roosting grounds of protected species of birds. Screens varying from 60cm to 120cm are completely inappropriate and will not adequately deflect noise, screen movement, nor prohibit human nor dog encroachment in this protected area. It should also be noted that this will be a particular issue at low tide when two causeways from the R151 to the deep Boyne navigational channel are exposed (one opposite Mornington Cemetery and the other opposite the High Road). In addition to the negative impact on wildlife, there is a serious safety concern when additional people using the proposed greenway will inevitably stray onto the causeways, get stranded by a rapidly-rising tide at the mudflats, and possibly drown.

## **2. Safety, Privacy, Security and Devaluation of Property**

It is proposed that entrances to all houses on Tower Road and Mornington Road will open immediately onto the greenway. This is a serious safety issue for both residents and members of the public as there is not a sufficient gap for residents to see if it is clear to pull out onto the road. This will inevitably result in a local resident and/or greenway user being involved in a collision, or worse.

The front of my house is mere metres from the proposed development. Whilst I am not losing a large portion of my front garden, like most of my neighbours, our privacy will be severely impacted by walkers and cyclists looking directly into our front rooms. The loss of gardens, privacy and security will have a detrimental impact on the value of properties on [REDACTED]

This proposed development offers little or no benefit to local residents, and indeed the opposite is the case where some residents' properties will be substantially devalued. Tourism will not be enhanced in any substantial way and there certainly will be no benefit to the local community which could justify the detrimental environmental impact of the proposed development. It is notable that a full Cost

Benefit Analysis was not undertaken for such a large-scale proposal, and perhaps one should be sought before a final determination is made.

No car parking facilities feature as part of the proposed development, so local roads and residences will be severely impacted by illegal parking. Additionally, emergency services access will be badly impaired by illegal parking, particularly on Tower Road and at Tower Bridge. Littering, wildfire-setting and antisocial behaviour will inevitably become common-place as some users of the greenway will not have the same respect for the area as local residents.

All of these issues will impact on my quality of life, and that of my neighbours.

### **3. Similar Cases**

The Board has previously opined on other similar cases, the most relevant of which are summarised below:

- Case 302948-18 for change of use from golfing range to caravan site in an area on the Boyne adjacent SPA 4080 and SAC 1957. In addition to other reasons for refusal, the Board determined "On the basis of the information provided with the planning application and appeal, and in the Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the integrity of the Boyne Estuary Special Protection Area (Site Code: 004080) and the Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957), or any other European site, in view of the sites' conservation objectives. In such circumstances, the Board is precluded from granting permission".
- Case 301076-18 for the development of a greenway from Ferrybank to Curracloe, Co. Wexford. In addition to other reasons for refusal, the Board determined it was "... not satisfied that the Local Authority has demonstrated that the proposed development would not adversely affect the integrity of the Raven Point Nature Reserve cSAC (Site code 000710), the Wexford Harbour and Slob SPA (Site code 004076) and the Raven SPA (Site code 004019) in view of the Conservation Objectives for these sites. The increased level of usage by pedestrians/cyclists associated with the greenway will increase accessibility and human activity and potentially result in a significant negative impact on the existing Annex 1 habitats at the Raven Point Nature SAC and additional disturbance and displacement to birds using intertidal habitats at the Raven SPA. Furthermore, the Board is not satisfied that the long-term efficacy of the mitigation measures to protect the Greenland white fronted geese and hen harrier populations and other bird species has been sufficiently demonstrated.

In overall conclusion, the Board is not satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives.

It is considered that the proposed development, the design of which is predicated on significant mitigation measures including extensive screening, fencing and security measures of varying scale and design, would have significant and unacceptable negative effects on the environment and residential properties in the vicinity and would be detrimental to the attractive and sensitive visual and landscape amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.



Having regard to the information on file, it has not been demonstrated that the development would not have an adverse ecological and biodiversity impact arising from the loss of habitat and bird breeding sites in this ecologically sensitive area as a result of vegetation clearance and works during the construction phase, including the potential loss of trees. Furthermore, the Board is not satisfied that sufficient controls and mitigation measures have been put in place to manage the increased volume of pedestrians and cyclists who may have the propensity to diverge from the greenway route. As such, the potential arises for significant adverse ecological impacts on the fragile dune system and habitat and associated species at Raven Point. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

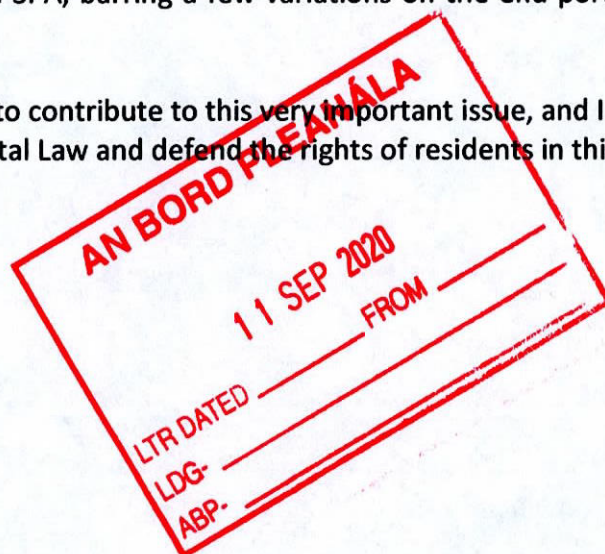
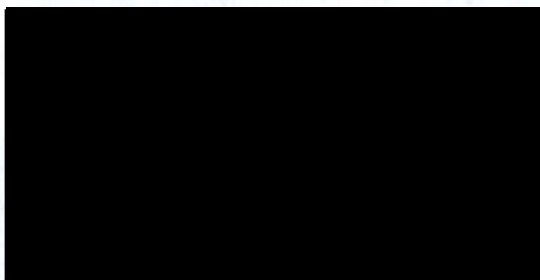
... the Board concurred with the Inspector that there was an absence of adequate information regarding the potential traffic and parking impacts of the development, in particular the risk of adverse traffic safety impact and congestion arising on the local road network in addition to overspill parking at the trail heads. It considered however that this matter could also have been addressed by way of further information”.

I would also draw the Board’s attention to a Commission versus Ireland case in the European Court of Justice in which the Court found against Ireland in its transposition and application of several articles of the Habitats Directive. Whilst I appreciate that the planning process for the proposed development is now at Stage 2 where the Board must opine because the local authority is not competent to do so, I question how the proposed development has got this far when Article 6(4) of the Habitats Directive is considered: “Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest”. Does the Board consider the proposed development meets any of these criteria?

I do not believe that the development, as proposed, has demonstrated beyond reasonable scientific doubt that there is no adverse effect on the integrity of the SPA and SAC, nor that there are imperative reasons of overriding public interest as to why it should proceed. Additionally, the mitigation and compensatory measures proposed are not adequate to ensure the overall coherence of the Natura2000 network is maintained, and the “alternatives” examined are fundamentally using the same route which encompasses two thirds of the SPA, barring a few variations on the end portion of the route which still terminates at the SAC.

I again thank the Board for the opportunity to contribute to this very important issue, and I trust in its judgement to uphold European Environmental Law and defend the rights of residents in this case.

Yours faithfully,



Appendix 1 attached.