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10th September 2020

An Bord Pleanála
 64 Marlborough Street
 Dublin 1
 D01 V902

Construction of the Boyne Greenway Drogheda to Mornington, Co. Meath & Co. Louth (APB-307652-20)

- Ref A. Outline Construction Methodology Report (PDF, 3.02 mb)
- B. Constraints & Preliminary Design Report (PDF, 6.23 mb)
- C. Archaeological and Built Heritage Assessment Report (PDF, 3.07 mb)
- D. Boyne Greenway Arboricultural & Tree Survey Report (PDF, 15.78 mb)
- E. Boyne Greenway Ecological Impact Assessment EclA Report (PDF, 17.45 mb)
- F. Boyne Greenway Natura Impact Statement Report (PDF, 15.74 mb)
- G. Environmental Impact Assessment Report Screening Report (PDF, 1.46 mb)
- H. Flood Risk Assessment Report (PDF, 13.00 mb)
- I. Route Options Assessment Report (PDF, 6.09 mb)
- J. Arboricultural & Tree Survey Drawings (101 -115)
- K. Domestic Entrance Drawings (2)
- L. Land Requirement Drawings (001 - 004)
- M. Mornington Bridge Drawing (1)
- N. Route Alignment Drawings (Key Plan plus 40 Sheets)
- O. ABP Sec 177 AE - Guidelines for Local Authorities
- P. Drogheda Borough Council Development Plan 2011 - 2017

A Charirde,

Introduction

The concept of a greenway/cycle/walking route between Drogheda and Mornington is to be welcomed as a continuation of those being constructed throughout the country. However, the proposed one, the subject of this application would result in loss of or damage to both SPA/SACs (European protected sites). This planning application should be refused and returned to Meath County Council (MCC) for the re-submission of an alternate route on higher ground that will not have significant adverse impact on the SPA and SAC that this proposed route unquestionably will have.

1. To support this contention we wish to make the following submissions and observations.

The Greenway Plan – Drogheda to Mornington as per Meath County Council application

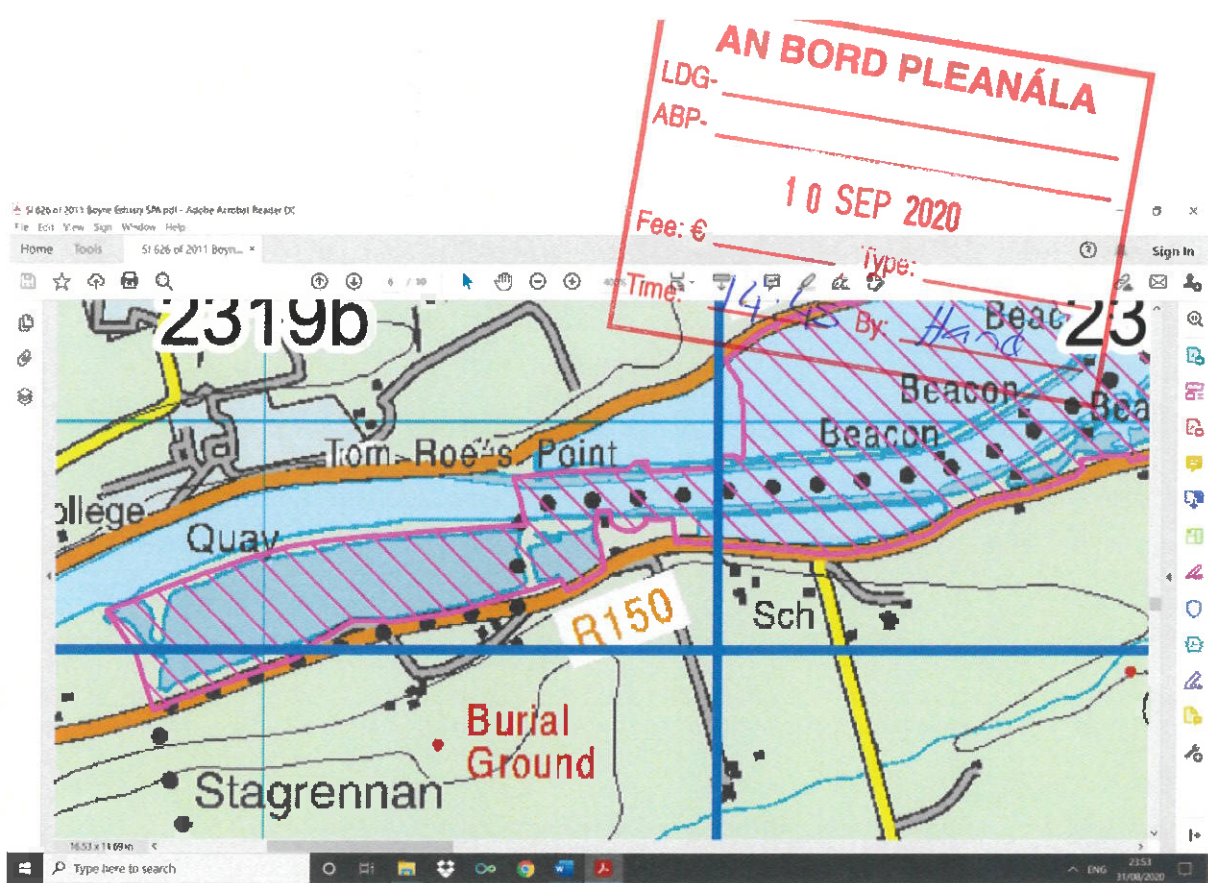
- a) Meath Co Co (MCC) planning application to An Bord Pleanála Ref. ABP-307652–20 is a 4-metre-wide, 5.9 km long, public road/Greenway/pedestrian route running from Ship Street at Drogheda to the Tower Road/Crook Road junction at Mornington.
- b) DFBL, the Consulting Engineers, were given the task by MCC to devise a Greenway from Drogheda to Mornington that would lessen “.... the ecological impact of the proposed cycle and pedestrian infrastructure on the existing Boyne Estuary Special Protection Area and the Boyne Coast and Estuary Special Area of Conservation, both during construction and long term during the operational stage.” This Planning Application fails as the route choice along the R150/R151 maximises the views along the Boyne Estuary from a height of 11.54 feet (3.54 metres – Chainage 2290) above the level of Flood Zone A, but does not in any respect protect the integrity of the SPA and SAC (European Sites), and is contrary to 2.1.7 Section 9.0 of the NPF which highlights the commitment to Environmental and Sustainability Goals. National Policy Objective 52 encapsulates this stating: “The planning system will be responsive to our national environmental challenges and ensure that development occurs within environmental limits, having regard to the requirements of all relevant environmental legislation and the sustainable management of our natural capital”.

The Greenway Route Description

- c) The Planning Application is being less than accurate in that the Greenway route at Ref. A, Para 1.2 is described as 4.1km adjacent to the R150/R151 road and 1.8km away from the road, total 5.9km. Only at Ref. A, Para 2.3 do we see that the Greenway will ‘overlap’ for 2.4km into the SPA. These figures conflict with the table provided at Ref. A, Appendix A as this calculates to 2.1km within the SPA. I estimate a more accurate distance of encroachment by the Greenway into the SPA as can be seen from Annex A. (attached table) to be approx. 3.1km. All private land that will be affected by the Greenway is not known to us as not all private sites are registered with the Land Registry and available for viewing at www.landdirect.ie. However, we estimate over 50% of Greenway encroaches into the SPA.
- d) The remaining 2.8km is divided between approaching the SPA East from Ship Street along the industrial section of the R150, and leaving the SPA East along the R151 to finish again at the edge of the SAC (beginning of dunes system) at the bridge over the stream known locally as the Gut, at Tower Road/Crook Road junction adjacent to the Dunes and to which many visitors will automatically be attracted.

Maps and Drawings showing the SPA and SAC

- e) The outline of the SPA, as contained in Statutory Instrument No. 626 of 2011 (See Enclosure 1 attached, available from www.npws.ie), runs from the centre of the road R150 at the Meath/Louth county boundary at Stagrennan northwards across the River Boyne Estuary and means any construction on the northern edge of the R150 road (apart from private property) encroaches into the SPA and/or the SAC.



(Extract of map taken from SI 626/2011 showing SPA starts at centre of road)

- f) Annex B (attached) shows the outline of the Stagrennan Section of the Boyne Estuary SPA taken from the Drogheda Borough Development Plan 2011 - 2017. This plan is referenced at page 55, Footnote 13 of Ref. F above. Again, it is clear that the Greenway as planned will first encroach into the SPA at Stagrennan.
- g) The ideal maps/drawings to show how the Greenway encroaches into the SPA and SAC are at Ref. N. above i.e. Route Alignment Drawings (Key Plan plus 40 Sheets) where the Chainage of the Greenway is indicated every 10 metres. However, it seems that MCC chose not to show the absolutely essential outline of the SPA and SAC (European Sites) on these drawing. How can ABP make a judgement when the exact beginning of the encroachment of the European Sites on this planning application is not shown?

Expected number of people to use the Greenway

- h) Nowhere in the planning documentation is there mention of the number of people/users that the proposed Greenway would attract per day/year. However, based on the planning width of the Greenway at 4 metres it can be estimated that MCC expect up to at least 1,500 users per day at high season. Note: See Transport Infrastructure Ireland (TII) Rural Cycle Scheme Design (including Amendment No. 1, dated December 2014) para 4.11. This document sets out standards for the width of cycle paths and notes that the desirable minimum width of two-way, low volume cycle facilities with shared use with pedestrians is 3 metres. Low volume facilities are those considered to attract less than 1,500 users per day. The desirable minimum width for high volume facilities (attracting greater than 1,500 users per day) is 5 metres.
- i) It is universally accepted that the most disturbing influences to wild birds in a SPA are walkers, dogs off leash and cyclist. Greenways by their nature, and this Greenway is no

exception, encourage these most disturbing influences, walkers, dog walkers and cyclists. Therefore, planning for a Greenway that encroaches into the SPA will most certainly cause serious damage as MCC could not possibly guarantee that the users of the Greenway will NOT significantly impact on the integrity of the SPA.

Potential for further damage to the dunes / SAC /SPA at Mornington

- j) The dune system at Mornington is not protected by fencing and/or boardwalk. People have unrestricted access to the dune system which is being damaged as a result. While there is an [REDACTED] pay parking facility for commuters close to the proposed greenway at the viaduct near Ship St in Drogheda there are no parking, or any other facilities, serving the Greenway at the other end at Mornington. The Resident Engineer, MCC, has confirmed that there is no proposal to upgrade parking at Mornington as part of this project. Ref. F, Appendix B, Final Minutes of 18 Dec 2019 at Para 3.b. The planning application includes a derisory bench and 4 bicycle parking stands at the end of the proposed Greenway at the edge of the SAC/Dunes at Mornington. Taking into account that up to 1,500 people per day could use the Greenway it would mean that these people will be encouraged to traverse the dunes at Mornington (SAC and SPA) with their bicycles, dogs, etc thereby doing irreparable damage as the soft coast dunes and the protected flora and fauna that are not physically protected. The Greenway in Mayo ends at Achill Sound and people flow seamlessly onto Achill oblivious to the demarcation.
- k) At the same meeting, again at Para 3.b., on 18 Dec 2019 one of the NPWS reps [REDACTED] "queried if the proposed greenway was part of a bigger plan, to extend proposed greenway further into the European site beyond what was currently proposed, as any cumulative impact would then need to be considered." It is noted that the Greenway no longer ends in the SAC at the East & West Lighthouse area as proposed in the non-Statutory Public Consultation Plan, but on the edge of the SAC at the Tower Road/Crook Road junction. This remains a clear indication that MCC intend to continue a further section of the Greenway through the SAC and this must not be allowed to happen.
- l) It would appear that MCC are prepared to sacrifice the SPA and SAC (European protected sites) in order to get this section of the Greenway through construction and into operation. Proper planning would dictate that the SAC and SPA are first fully protected before any Greenway is planned and construction undertaken which this Proposal clearly does not and cannot by its very nature.

The Meath County Development Plan

- m) The Draft Meath County Development Plan 2021-2027, Chapter 8, Culture and Natural Heritage Strategy, page 22, HER POL 32 states: "It is the policy of Meath County Council: To permit development on or adjacent to designated SAC and SPA ...only where an appropriate level of assessment carried out the satisfaction of the Planning Authority can clearly demonstrate that it will have no adverse effect on the integrity of the site." This planning application conflicts with MCC own County Development Plan as the planning application as proposed cannot guarantee that there will be no adverse effect on the integrity of the SPA and/or SAC.

Monitoring Commitment proposed by MCC

- n) The commitment/proposal of a part time suitably qualified Ecological Clerk of Works, (ECoW) Ref A. Para 3.1, for a period of three (3) years post construction, to undertake to 'monitor the intrinsic design measures' would appear to indicate that this planning application is 'preparing to fail'. Once the damage is done to the European sites, and it is clear that they will be damaged, and especially the SPA, it is ludicrous to suggest that report or review could possibly undo the damage, short of closing off the Greenway with the consequent complete waste of public (EU and national) funds. Such an 'ECoW monitoring experiment' as proposed, however expert the monitor, could not undo the irreparable damage that will be caused by this Greenway application and seems a purely cosmetic exercise.

Mitigation Measures proposed by MCC

- o) The mitigation measures proposed in the planning at Ref. A, para 2.3 do not and could not protect the integrity of the SPA/SAC as:
- p) The wintering birds here start to arrive in August of each year. Disturbance will occur through August and September during construction phase.
- q) Limiting construction work to daylight hours only is not sufficient and immaterial as birds feeding on the intertidal mudflats do so in front of the incoming tide irrespective of whether it is day or night.
- r) Camouflage netting of the Greenway during construction cannot minimise noise disturbance to the birds on the SPA.
- s) The screening proposed to counter the impact from dogs and noise transfer to the birds and other species in the SPA/SAC is insufficient and lacking in detail. If the Greenway was routed away from the SPA/SAC, as previously suggested at the public meetings, then such screening would not be required.
- t) The lighting proposed for the Greenway is insufficient and lacking in detail. Any degree of lighting is injurious to birds. If the Greenway was routed away from the SPA/SAC then adequate and proper lighting that would make the Greenway safe for people could be used.
- u) The wintering birds also use the lands adjacent to the Estuary SPA/SAC. Birds are no respecter of fences, hedges and notices. People, cyclists and animals off leash using the proposed Greenway will, of course, disturb the birds and fatally damage their chances of survival here.
- v) No mitigation measures are proposed to cater for additional pollution of the SPA/SAC ensuing from users of the Greenway.

Environmental Hazards Zones

- w) There are a number of Hazard Zones on the proposed route of the Greenway that would not appear to have been considered or highlighted in the planning application. I can find no mention of the Health and Safety Authority (HSA) being consulted as required by the EU Directive on the Control of Major Accidents Hazards (Seveso). "Planning applications in proximity to Seveso sites are referred to the Health and Safety Authority (HSA), a prescribed body, for their input and the planning authority in making a decision must have regard to their advice."

Marsh Road, Drogheda

- x) Drogheda Borough Council Development Plan 2011 – 2017 (Ref. P, Chapter 2, Development Strategy, para 2.10) has identified the [redacted] site on the Marsh Road as a site which poses a potential risk to public safety by reason of the nature of the substances handled on the site. A “designated zone of impact” has been established as a result of this risk. The Greenway route as planned runs through the Flogas carpark i.e. through this zone of impact.

Unloading of Explosives at Mornington Berth

- y) Explosives [redacted] Bye-Laws, 2018 (Draft) (See Enclosure 2) provides for the unloading and movement of explosive raw material at Mornington berth. The Bye-laws make provisions to have the [redacted] and adjacent houses on the Crook Road to be evacuated during the use of the designated berth at Mornington. To plan a Greenway near the unloading berth and to follow the route of the vehicles bringing the explosive material from Mornington without providing for all eventualities would appear to be foolhardy, and not in accordance with proper planning.

Asbestos dump at Stewart’s Bank in SPA

- z) MCC is aware that [redacted] discovered asbestos dumped at the area known as Stewart’s Bank in the SPA circa 2003. This asbestos has never been removed as MCC advice is that asbestos found underground should be marked and sealed but not necessarily excavated. The exact size of the asbestos dump remains in dispute. This matter was reported in the Irish Times on 23 April 2003. Stewart’s Bank is on the route of the proposed Greenway so this matter would have to be resolved as planning a Greenway through an asbestos dump is dangerous not only to the health and safety of construction workers but also to users.

[redacted] Treatment Plant

- aa) While not defined as an Environmental Hazard the impact of Mal Odour from the [redacted] Treatment Plant (opposite [redacted]) should also be taken into consideration. The Mayor and Councillors in Drogheda are currently publicly reported as being at loggerheads with the Company running the Plant.

- bb) Their latest listed PRTR pollutants release to air under their EPA licence include yearly: CO- 966 tons; Co2 - 161,855 tons; Nox/No2 - 2862 tons; chlorine and inorganic compounds released as HCl – 413 tons; chromium and compounds released as CR – 0.086 tons; Sox/So2 – 759 tons. [redacted] plant, is directly across the Boyne from the end of the County Louth section of the proposed Greenway.

Examples of planning refusals through or adjacent to SPA/SAC.

- cc) At present we can find six (6) instances of refusal by the competent authorities for planning applications adjacent to, or through, SPA/SACs.
 1. European Court of Justice ruling on Galway Bypass on 11 April 2013.
 2. Corballis, Laytown. Construction of a new single storey pavilion, proposed new entrance and car park. APB Board Direction BD-001727-18.
 3. Wexford Greenway Planning Application. ABP Board Order ABP-301076-18.

4. Boyneside Camping Ltd. ABP Board Order ABP-302948-18.
5. 357 houses at Marsh Road. See Annex A. ABP Board Order ABP-305703-19.
6. 450 houses at Colpe. The High Court Judicial Review [2020 No. 44JR].

dd) As shown with the a/m examples MCC cannot guarantee that the integrity of the SPA and SAC will not be significantly affected by the planning application during construction and operational phase.

Vandalism of the Greenway

ee) Unfortunately, vandalism and arson of the Greenway are a distinct possibility as can be shown from the photo below of the section of the Drogheda to Oldbridge Greenway near the Mary McAleese Boyne Valley Bridge which was destroyed in July 2018 to the estimated cost of €200,000 and not yet fully restored. It would be prudent planning to build in firebreaks in the (plastic) boardwalk sections of the Greenway. It would appear that this has not been done in this planning application.



(Result of arson damage to Boyne Greenway near Oldbridge on 26 July 2018)

Access by Emergency Services to certain sections of the Greenway

ff) We cannot find consideration in this plan for access by the Emergency Services to 'off-road' parts of the Greenway to deal with possible medical and/or fire emergencies.

Appropriate: Stage II Environmental Impact Assessment Report

gg) It is noted that there is an Environmental Impact Assessment Report Screening (Ref. G.) included with this planning application. We understand that it is a necessity for an

application to ABP by MCC (a Local Authority) to include an Appropriate Assessment: Stage II EIA. This Planning Application is, therefore, incomplete.

The Natura Impact Statement Report (Ref. F. above)

- hh) The Boyne Greenway Natura Impact Statement Report is a substantial document purporting to describe the construction method of the Greenway as well as study the fauna and flora of the Boyne Estuary SPA and SAC. The basis of the study involved should obviously include accurate maps and drawings with outlines of the protected European sites concerned. Unfortunately, this document uses maps with outlines of the Construction Method, SAC and SPA that are "For illustrative purposes only. Map not to scale." The greatest omissions are the maps/drawings used to describe the Count Areas of the SPA (Ref F. Appendix A, pages 77 to 166) as they do not include the correct outline of the SPA but rather give the extraordinary and incorrect impression that the proposed Greenway is running outside the SPA when correct mapping would put the Greenway clearly within the SPA. This is a serious mis-interpretation.
- ii) The NIS Report references the UK Exe Estuary SPA as an example of a cycle track alongside the SPA. But nowhere on the map of the Exe Estuary SPA does the cycle track encroach into the SPA unlike that of the proposed Boyne Greenway. The comparison, therefore, does not stand up.
- ii) The NIS does not take into account any estimate of the numbers of users (walkers, dog walkers and cyclists) along the length of the Greenway and their impact on the birds on the Boyne Estuary SPA. The NIS does acknowledge that 'off leash dogs' are the single most disturbing issue to birds in a SPA. It is easy to estimate the disturbance to the birds on the SPA by even one 'off leash dog'. Multiply the disturbance of one loose dog by the possible number per day along the length of the Greenway and it would be quite logical to expect to see all of the SPA adjacent to the Greenway as far out as the training wall of Boyne River being permanently cleared of birds feeding on the Estuary. The proposed mitigation measures of a 600mm or even 1200mm screen on the Greenway and signs would not deter a dog off leash from chasing the birds on the SPA. As there is no proposal for a Warden to ensure the mitigation measures are adhered to during the operational phase of the project then 'dogs on leash' signs will be ignored as they are on the beach SPA further south along the coast. MCC cannot guarantee that such a significant impact on the SPA will not happen.
- jj) It seems rather strange / incredible that this NIS (Ref. F, Table 6.4, page 63, last paragraph on table) would try to justify the construction and operation of a campsite adjacent to the Boyne Estuary SPA **when planning permission has already been refused** (Note ABP Board Order ABP-302948-18 and see para 24.d. above).

Wintering Bird Survey

- kk) The wintering bird survey as described at Ref. F., Para 4.2.2.1.4 Birds, can best be described as incomplete and therefore unsatisfactory. The subsites used in the counts are outlined in Ref F., Figure 3.1, page 17. The subsites outlined do not cover all of the Boyne Estuary SPA. The twelve (12) bird counts contained in the NIS were completed in only six (6) of the twelve (12) subsites of the SPA and all counts took place between 05th and 30th March 2018.

- ll) Table 2 attached is a Consolidation of Dates, Viewing Points and Bird Count Subsites of Ref F. Appendix A. of the NIS Report carried out by INIS for MCC. The following points render this survey less than complete:
- mm) The 6 count areas used in this report are on the South side of the River Boyne only. The Boyne Estuary SPA covers both sides of the River Boyne.
- nn) Count sheet no. 90 of 90 of Ref. F., Appendix A is missing from the soft copy of NIS Report.
- oo) A comprehensive bird survey is one that is carried out each month from September of one year to March of the following year inclusive. This is as per the Birdwatch Ireland Wetlands Bird Survey (I-WeBS) in order to judge the true figure of wintering birds on an SPA. A complete survey would find that wintering bird numbers build up from August to a peak count in January and greatly reduce in numbers by March.
- pp) The NIS counts all took place during the month of March when the numbers of wintering birds is greatly reduced.
- qq) A proper Count should be done on all subsites on the same day at the same time, normally from about 3 hours before High Tide as the birds are busy feeding in front of the incoming tide. This method greatly reduces the chance of a double count of birds moving onto other subsites as the timings of movement of flocks can be noted by counters and figures adjusted when consolidating SPA counts. Only this method can give an accurate count.
- rr) Only one (1) subsite per day in March 2018 was counted in this survey. Therefore only 1/12 of the SPA was counted on any one day. A proper survey takes a team of counters, normally unpaid, to cover the whole SPA subsites on the same day at the same time to get an accurate count.
- ss) No account was taken of birds in fields adjacent to the SPA. Some species ie. Brent Goose in particular, always use the nearby fields as well as the SPA. This is borne out by the evidence of their use of large suburban green areas in Kilbarrack while wintering at nearby Bull Island and adjacent areas.

Environmental Damage

- tt) The Greenway will obviously attract people, and people leave rubbish. There is no mention of how MCC plan to deal with the rubbish and dog faeces that will inevitably end up polluting the SPA and SAC.
- uu) The R150/R151 is the only direct road to the large market town of Drogheda for the entire population of the urban conurbation of Laytown-Bettystown-Mornington-Donacorney. It is the only direct route for deliveries from Drogheda or collections to Drogheda for businesses in the area. Its downgrading would interfere with proper planning for the future development of business in the areas. It is the direct route for schools, and for commuters to the town of Drogheda. All other roads link with the clogged Old Dublin Road. The proposed traffic management plans at junctions would have the result of downgrading this busy regional road to the status of a local road with the consequent back up of traffic along the entire journey with the resultant downgrading of the experience for walkers on the Greenway. It would also prove a dangerous road for the thousands of professional and semi-professional cyclists who

yearly travel the Naul-Bellewstown-Drogheda-Coast Roads Circuit, and who cannot be persuaded onto Greenways because of the health and safety aspects involved with speed limits, pedestrians and dogs. It could also prove a deterrent to businesses wishing to set up in this expanding area.

Oral Hearing

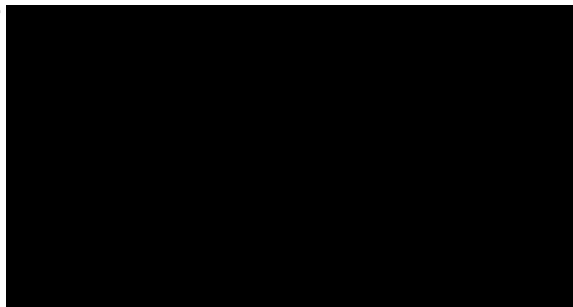
- vv) In accordance with Ref O. above 'ABP Sec 177 AE - Guidelines for Local Authorities' para 4.4, if the planning is not refused at the outset, it is requested that an Oral Hearing be considered by ABP to assist in the determination of this planning application.

Conclusion/Summary

ww) The route of the Greenway as proposed by Meath County Council (MCC) does not stand up to the planning criteria of:

1. proper planning and development of the area between Drogheda and Mornington;
2. the likely significant adverse effects of the proposed Greenway on the environment; and
3. the likely significant adverse effects of the proposed Greenway on the Boyne Estuary Special Protection Area and the Boyne Coast and Estuary Special Area of Conservation (European sites).

This planning application should be refused.



- Annex A.** Drogheda Independent Report on ABP planning refusal for 357 homes at Colpe.
B. Map extract from Drogheda Borough Development Plan 2011 – 2017 showing the outline of Stagrennan SPA.

- Table** 1. Estimate of Greenway through the SPA and SAC.
2. Consolidated dates, Viewing Points and bird count subsites of Ref F. Appendix A. Natura Impact Statement Report.

- Enclosure** 1. Statutory Instrument No. 626 of 2011 – Boyne Estuary Special Protection Area (004080).
2. Explosives (Drogheda Port Company) Bye-Laws, 2018 (Draft).