



An
Bord
Pleanála

Inspector's Report ABP-302948-18

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| Development | Change of use from golf driving range to touring campsite comprising 75 hardstand pitches and grass space for 24 tents and all associated site works |
| Location | Coast Road, Mornington, Co. Meath |
| Planning Authority | Meath County Council |
| Planning Authority Reg. Ref. | LB180961 |
| Applicant(s) | Boyneside Camping Ltd |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission |
| Type of Appeal | First and Third Party |
| Appellants | <ol style="list-style-type: none">1) Boyneside Camping Ltd2) Angela Pender3) Yvonne & Brian Nugent4) Frank & Rita O'Reilly5) Janice and Paul Mulligan6) Vincent Black7) Paul Conaghy and Rita Lambe |

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| | 8) Michael & Bernadette McHugh |
| | 9) Michelle Molloy |
| Observer(s) | 1) Mary & Desmond Kelly |
| | 2) Tom Kelly |
| | 3) Birdwatch Ireland |
| Date of Site Inspection | 6 th of February 2019 |
| Inspector | Angela Brereton |

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1.0 Site Location and Description

- 1.1. The site is located on the Coast Road between Drogheda and Mornington. It is surrounded on the west and north by the Boyne Estuary. There is agricultural land to the south and east of the site. This is an existing small pitched roof building on site and metal frame structures which were associated with the previous use of the site as a golf driving range. This use is now vacant and the site is not currently in use.
- 1.2. The site appears open and undulating consisting partially of low sand dunes to the west with flatter ground to the east and partially marshy in places. There were patches of water logging seen in small areas of the site on the day of the site visit in February. There is a berm along the northern site boundary which appears to be a flood defence. The site is well set back from the road and is screened by hedgerows.
- 1.3. The site is on the north side and is accessed by an existing vehicular entrance off the R151 Tower Road. The long narrow access road is only partially surfaced. Sight lines on either side of the entrance appear adequate. There is a roadside verge and set back low wooden fence along the eastern side of the road frontage. There is a grassed area to the west that is bounded by the estuary. There are no footpaths in the immediate vicinity. There is a footpath some distance to the east on the opposite side of the road to the housing estate Mornington Court. There is some agricultural land and one-off housing between the site and the Riverside Gift Shop which is opposite Mornington Court. There is currently no pedestrian access between the site and this shop. An old partially surfaced laneway serves a few houses and leads to the 'Bird Sanctuary' further to the east of the shop.

2.0 Proposed Development

- 2.1. This is to consist of the following:
 - Change of use from golf driving range permitted under planning reference SA40248 to Touring Campsite comprising 75 hardstand pitches and grass space for 24 tents,
 - conversion of first floor of existing reception building/shop from storage to office,
 - ground floor extension to include porch and laundry,

- demolition of southern driving range bays and conversion of northern driving range bays to toilet and kitchen block and store,
- decommissioning of existing waste water treatment plant and form new connection to foul sewer on the R151,
- upgrade the existing access road,
- provision of 3 flagpoles at entrance,
- provision of pedestrian route through adjacent Riverside Giftshop and associated civil works.

2.2. The application form provides that the area of the site is 3.8ha, the g.f.s of existing buildings is 621sq.m and of the proposed works is 285sq.m and 315sq.m is proposed for demolition. It also notes that they have permission from the owner of adjacent land.

2.3. Documents submitted with the application include the following:

- Planning Statement – VCL Consultants (August 2018)
- Flood Risk Assessment – McCoy Consulting (August 2018)
- Natura 2000 Screening Assessment – Hydrocare Consulting Ltd (Nov. 2015) and Natura Impact Statement (May 2018)
- Environmental Screening Assessment (2017)

3.0 Planning Authority Decision

3.1 Decision

On the 16th of October 2018, Meath County Council granted permission subject to 24no. conditions. Many of these conditions relate to infrastructural issues, including access, drainage and flood protection, construction works, also to development contributions. The following are of note:

- Condition no. 2 – *Use of the site shall be restricted to motor homes, tents and touring caravans only. No placement of 'mobile homes' shall be permitted. All pitches on the site shall be for temporary occupancy only.*

Reason: In the interest of clarity and the protection of the environment during construction and operational phases of development.

These Conditions are of note relative to the First Party Appeal against Development Contributions.

- Condition no.22 provides (in summary): *The developer shall pay a sum of €21,538.00 as a contribution toward expenditure that was and/or is proposed to be incurred by the PA in the provision, refurbishment, upgrading, enlargement or replacement of public roads and public transport infrastructure by the Council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council ...*
- Condition no.23 provides (in summary): *The developer shall pay the sum of €865.00 to the PA as a contribution towards expenditure that was and/or is proposed to be incurred by the PA in the provision of surface water drainage infrastructure by the Council benefitting development in the area of the Authority..*
- Condition no.24 – provides for a Special Development Contribution of €7,500 *in respect of improvement works to the footpaths and kerbs on the R151 in the vicinity of the site over the life of the operation..*

3.2. Planning Authority Reports

Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the reports submitted and submissions made. They provide a summary of the Key Planning issues, which include:

- The current application is similar to that previously refused apart from the addition of a walkway back to the village to the east of the site.
- The new proposal does not result in any additional development closer to the designated areas than previously assessed. Having regard to the NIS and the mitigation measures proposed, they consider that the proposal will not have an adverse impact on the Natura 2000 sites.

- They have regard to the Planning and Development Regulations Schedule 5 and note that this proposal which is close to two designated sites is less than the threshold where a mandatory EIA is required. They concur that a full EIA is not required.
- They note the site is not located on zoned land. They have regard to the tourism potential and the need for a caravan/camping site.
- The design of the layout and buildings are considered to be acceptable.
- They note the comments of Irish Industrial Explosives and Dublin Port Company and recommend that the current site layout be conditioned.
- They note that the Transportation Section recommends a grant subject to conditions in relation to engineering details of the proposed pedestrian link to the village. They consider that the reason for refusal has been overcome.
- They note the comments of Irish Water and the Council's Water Services Section and have no objection to drainage subject to conditions.
- They note the comments of the Council's Environment Section and have regard to the Flood Risk Assessment and consider that the applicant has submitted sufficient information to address the Justification Test. They have regard to the recommendations made and consider that the flooding issue can be dealt with subject to conditions.
- They provide a calculation of development contributions under the Council's Section 48 General Development Contributions Scheme and note the need for a special development contribution.
- They conclude that the application is acceptable in the context of the Meath County Development Plan 2013-2019. They consider that the proposal would not negatively impact on the visual or residential amenities of the area and recommend that permission be granted subject to conditions.

3.3. Other Technical Reports

Water Services - They have no objections subject to conditions relative to surface water drainage and storage.

Transportation Department

They note issues relative to pedestrian access to the site and the proposed right of way. They requested that F.I be submitted to show the proposed pedestrian and cycle routes through the site of the Riverside Gift Shop including the crossing point on the R151 public road, works to paths and crossings to facilitate wheelchair access. They also requested a special development contribution to facilitate works outside the boundary of the site.

Environment Section

It is noted that separately the Flood Risk Analysis has been assessed by the Council having regard to the Justification Test and proposed mitigation measures. They conclude that the proposal is acceptable subject to recommended conditions.

Fire Services Department

They note that Fire Safety Certificates are required in accordance with Part III of the Building Control Regulations.

3.4. Prescribed Bodies

Irish Water

They have no objections subject to conditions.

An Taisce

They note the previous refusal on this site (Reg.Ref.LB/171441 refers). They provide that an evaluation is required, that demonstrates that all the issues have been resolved which determined the site unsuitable previously.

3.5. Third Party Observations

A number of Submissions have been made by local residents, including Local Representatives. These have been noted in the Planner's Report. As the issues raised are broadly similar to those raised in the subsequent Third Party Appeals they are noted and considered further in the context of the grounds of appeal and assessment below.

It is also noted that there is some support for the proposal from Local Representatives and Boyne Valley Tourism, relative to the need for such a facility and the positive impact on tourism and the economy in the East Meath area.

Submissions have been made on behalf of Drogheda Port Company and Irish Industrial Explosives Ltd (IIE). These support tourism promotion within the region and do not wish to object to the principle of the development but are concerned about the suitability of this site given its proximity to a site of national strategic importance and the sensitive port operational activities carried out thereon. These are considered further in the context of the Assessment below.

4.0 Planning History

- Reg.Ref.SA/40248 – Permission granted by Meath County Council subject to conditions for a Golf driving range, single storey Pro Golf shop, associated carparking, waste water treatment system and percolation area, new entrance on the Mornington Road and associated civil works from a request for further information.
- Reg.Ref. LB/171441- Permission refused by the Council for change of use from golf driving range permitted under Reg.Ref. SA/40248 to Touring Campsite comprising 75 hardstand pitches and grass space for 24 tents, conversion of first floor of existing reception building/shop from storage to office, ground floor extension to include porch and laundry, demolition of southern driving range bays and conversion of northern driving range bays to toilet and kitchen block and store, decommissioning of existing wwtp and form new connection to foul sewer on the R151, upgrade of existing access road and provision of 3 flagpoles at entrance and associated civil works. Significant further information/revised plans were submitted with this application.

This application was *refused* for 2no. reasons:

1) Having consideration of the nature of the proposed development as indicated on the plans and particulars submitted including an intensification of use of the Regional Road by pedestrians and cyclists associated with the proposed development using the road to travel to nearby services. To grant permission would reduce the capacity of this road, and would interfere with

the safety and the free-flowing nature of traffic on the road, would adversely affect the use of the Regional Road and would therefore endanger public safety by reason of traffic hazard and be contrary to the proper planning and sustainable development of the area.

2) Based on the lack of sufficient information submitted and measures proposed with the application to satisfy Criterion 2(ii) of the Justification test as required and having regard to the location of the application site within an area identified as being at risk of flooding. It is considered that the applicant has not demonstrated to the satisfaction of the PA that the risk of flooding at the proposed development is appropriately mitigated. The proposed development would therefore be contrary to the DoEHLG Flood Guidelines 2009 entitled: "The Planning System and Flood Risk Management". Accordingly, to grant the proposed development would contravene materially a policy of the County Development and would be prejudicial to public health, would pose an acceptable risk to the occupants of the camp site and would be contrary to ministerial guidelines issued to the planning authorities under Section 28 Ministerial Guidelines and to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Meath County Development Plan 2013-2019

Chapter 4 provides the Economic Strategy for the County. Policies ED POL 30-45 are of note relative to tourism, the environment and countryside recreation:

ED Policy 30 seeks: *To promote the development of sustainable tourism and encourage the provision of a comprehensive range of tourism facilities, subject to satisfactory location, siting and design criteria, the protection of environmentally sensitive areas and areas identified as sensitive landscapes in the Landscape Character Assessment for the county.*

ED POL 39 seeks: *To consider the provision of caravan, camping and motor home sites at suitable locations throughout the County in both urban and edge of urban settings or as part of integrated rural tourism complexes. In all instances, Meath*

County Council will seek to ensure a high standard of layout, design and amenity in such proposals whilst safeguarding the landscape character in sensitive areas.

Chapter 7 refers to Water, Drainage and Environmental Service. The site is located in a Flood zone and policies relevant to Flood Risk include:

WS POL 29: To have regard to the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoEHLG/OPW, 2009) through the use of the sequential approach and application of the Justification Tests for Development Management and Development Plans, during the period of this Plan.

WS POL 32: To ensure that a flood risk assessment is carried out for any development proposal, where flood risk may be an issue in accordance with the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoECLG/OPW, 2009). This assessment shall be appropriate to the scale and nature of risk to the potential development

5.2. East Meath County Development Plan 2014-2020

This LAP has been prepared to provide a statutory framework for the future growth and development of the above towns and village in a sustainable and equitable manner and is consistent with the policies and objectives contained in the MCDP 2013-2019, including the Core Strategy. This is concerned with consolidating development in towns and villages. It is based on building strong urban centres while protecting the rural hinterlands. The plan also emphasises the need to protect the built heritage, unique landscape, natural heritage and biodiversity of the county for their intrinsic value and as a resource for the tourist economy of the future. Policies TD POL 1 – 8 refer to the development of tourist facilities. The designation of Bettystown-Laytown-Mornington East as a Small Town and Donacarney-Mornington as a Village is reinforced in the CDP settlement strategy with the towns and villages being targeted for consolidated growth. The site is located outside of the LAP boundary and is therefore in the un-zoned rural area.

5.3. **The Planning System and Flood Risk Management Guidelines 2009**

These have been adopted and are the DOEHLG Guidelines for Planning Authorities (November 2009). The key principles are:

- Avoid the risk, where possible –precautionary approach.
- Substitute less vulnerable uses, where avoidance is not possible, and
- Mitigate and manage the risk, where avoidance and substitution are not possible.

Flood Zone A has the highest probability of flooding, Zone B has a moderate risk of flooding and Zone C (which covers all remaining areas) has a low risk of flooding.

The sequential approach should aim to avoid development in areas at risk of flooding through the development management process.

An appropriate flood risk assessment and justification for development in and management of areas subject to flooding and adherence to SUDS is recommended.

5.4. **Development Contributions - Guidelines for Planning Authorities 2013**

The Minister for the Environment, Community and Local Government has issued these guidelines under section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines in performance of their functions under the Planning Acts.

The primary objective of the development contribution mechanism is to partly fund the provision of essential public infrastructure, without which development could not proceed. Development contributions have enabled much essential public infrastructure to be funded since 2000 in combination with other sources of, mainly exchequer, funding. Discussion is had of the concept of the General Development Scheme, Special Contributions and Supplementary Contributions Schemes.

Special Development Contributions may be imposed under section 48(2)(c) of the Planning and Development Act 2000 as amended. This is discussed further in the context of the Assessment below.

5.5. Natural Heritage Designations

The site is adjacent to the Boyne Estuary SPA (004080) and the Boyne Coast and Estuary SAC (001957). Regard is had to Screening for AA and the conclusions of the NIS in the appropriate section below.

6.0 The Appeal

6.1. Grounds of Appeal

First Party

- 6.1.1. A First Party Appeal has been received from VCL Consultants on behalf of Boyneside Camping Ltd. They do not wish to appeal the decision of the Council to grant permission for the project but they do wish to appeal the levy of Development Contributions (Conditions 22 & 23) on the basis that the current Meath County Council Development Contributions Scheme 2016-2021 (as amended 1st of October 2018) has not been properly applied and the calculation of the net additional floor area has been incorrectly completed. This is detailed further in the Assessment below.

Third Party

- 6.1.2. A number of Third Party Appeals have been received from local residents who are concerned about the proposed development:

- Angela Pender
- Yvonne & Brian Nugent
- Frank & Rita O'Reilly
- Janice and Paul Mulligan
- Vincent Black
- Paul Conaghy and Rita Lambe
- Michael & Bernadette McHugh
- Michelle Molloy

As many of these raise similar issues of concern, for convenience the issues raised are considered under the following headings:

Planning History

- This application is very similar to that previously refused by the Council - Reg.Ref. LB171441 refers. The current application has failed to address the issues raised by the PA in the previous application which led to a decision to refuse permission. The issues of traffic/pedestrian safety and flooding have not been addressed.
- A previous permission was granted under Reg.Ref. SA40248 for a golf driving range. The driving range has not operated in over 10 years given the nature of the site and the propensity to flooding. They contend that the previous permission cannot be relied on due to the period of inactivity on site, the use could be considered abandoned.

Impact on Natura 2000 sites

- Regard to the proximity of the River Boyne and Boyne Estuary SAC and SPA. Concern that the proposal will have an adverse impact on habitats and wildlife including wintering birds and qualifying species.
- The area is of considerable importance as a coastal complex that supports examples of a number of different habitats. Photographs have been submitted showing some of the bird life and wild life in the area.
- Concern about loss of habitat and that adequate consultations have not been carried out with the appropriate bodies relative to the NIS and to the impact on the Natura 2000 sites.
- The impacts of the proposed development on the Conservation Objectives of the Boyne Estuary SPA has not been adequately reviewed in the NIS.
- It also fails to adequately assess the impacts of human disturbance on foraging wintering waterbirds who would forage in the mudflats and other habitats close to or within the boundary with the campsite. Light and noise pollution and general disturbance will have an adverse impact on bird life.

- The NIS is not underpinned by any bird survey work or relative to wintering water birds. To allow this proposal would be contrary to responsibilities under EU Bird Directive for the protection of Annex 1 bird species.
- The designated area supports a population of the rare snail, *Helix pisana*, in Ireland known only from the coast between counties Louth and Dublin.

Need for EIA

- There is no evidence on file that the requirement for a subthreshold EIA has been screened out.
- The proposed mitigating factors as submitted by the applicant, are insufficient to counteract the predicted disturbances to the surrounding wildlife sanctuary.

Impact on Traffic

- The site of the proposed development is located in a rural residential area, adjacent to the R151, a secondary road that is without footpaths or lighting.
- This road serves as the main access route between Laytown and Drogheda. In recent years the road has become very busy as a consequence of the development of Bettystown/Mornington. It also serves local schools.
- It is narrow and poorly aligned in the vicinity of the site and has not been upgraded to accommodate increased traffic, including trailers/caravans etc.
- The road network would not be able to cope with the additional volume of traffic and the proposal would lead to congestion.
- The site is not serviced by public transport, although there is note of a bus service from Laytown to Drogheda.
- Vulnerable road users such as pedestrians and cyclists will still have to use the R151 carriageway.

Pedestrian Route – Right of Way

- Concern about the proposed route of the pedestrian walkway, safety issues and impact on the environment and Natura 2000 sites relative to the 'pedestrian route through Riverside Gift Shop'.

- Concern about agreement for the 'right of way' and that the letter from the owner of the gift shop allowing the applicant to apply for permission does not indicate his intention to allow the construction of a cycle path on his land.
- The proposed pedestrian route runs close to existing residential properties which gives them cause for concern relative to health and safety issues, disturbance, lack of privacy, anti-social behaviour etc.
- Rights of Way are easy to establish but difficult to remove.

Flooding and Drainage issues

- The proposal represents a significant risk of flooding on this flood plain. It is within flood zones A and B and is prone to extensive flooding. The road in this area is also prone to flooding (they attach photographs).
- Improving flood defences relative to this site, will further disperse the flooding to the R151 and towards the village of Mornington.
- While extensive landfill has raised the campsite, the entrance to same and fields around are below the flood plain and are still prone to flooding. The hard standings for the caravans will curtail soakage.
- The change from a water treatment plant to connect to the public sewer is a concern given the nature of the site and the potential for flooding. This could cause undue pressure on existing public services and pumping station.

Impact on Character and Amenities of the Area

- The touring campsite facility will have a negative impact on the natural beauty of this scenic area. The natural amenities in the area are being eroded.
- A touring caravan site may become a permanent fixture to the detriment of the existing residential amenities of the area.
- The proposed development will introduce a transitory population and it should be located in an area with established amenities to support the development and visiting clientele.
- The proposed development on un-zoned lands is totally unsuitable for this quiet residential rural area, and will lead to noise and light pollution, litter, anti-social behaviour and devaluation of property.

- The 'Boyneside Trail' adjacent to the site has not been developed.
- The business model is not financially viable in the short to medium term and they predict that either the site will be left derelict and vacant or the applicant will apply for further planning permission.
- Amenities outside the site are poor as there is currently only one shop and one pub in the village of Mornington.
- This is the last remaining poppy meadow in Mornington. Wildlife in the area are abundant and will be adversely impacted. They need to be protected.
- A Visual Impact Assessment has not been provided on the impact of the proposed development on the adjoining scenic area and bird sanctuary.
- Pressure would be placed on the already over-stretched sewage, drainage, water and waste infrastructure and this development would also bring issues of security, anti-social behaviour, illegal dumping and poor litter management.
- The proposed development will have a detrimental effect on the environment, the safety of road and camping park users, quality of life of existing residents and the wider community.
- Alternative more suitable sites, with less impact on the environment and amenities and character of the area have not been looked at.

6.2. Applicant Response

VCL Consultants have submitted a response to the Grounds of Appeal on behalf of the Applicant. Their response is noted under the following headings:

Regard to the Proposed Usage

- They note the development of other holiday parks in the Bettystown/Laytown area and that these, although listed as caravan parks, comprise static mobile homes which are privately owned and occupied during the summer months. This proposal is to provide facilities for visiting tourists and the closest dedicated touring campsites are in Wicklow.
- They note that the driving range use permitted (SA/40248 refers) was closed due to soil characteristics causing difficulties with ball retrieval, remediation

works comprising the importation of soil were not completed and the project was abandoned in 2009 due to adverse financial conditions. The property was for sale some time and sold to the applicant in 2017.

- The Applicants interest and involvement in community and business and in tourism and camping are noted. The need for a suitable site is demonstrated by letter of support from the chair of Boyne Valley Tourism and the President of Drogheda and District Chamber.
- The support of a touring campsite is one of the priorities for Meath Partnership under the Leader Program and they provide support relative to capital funding to support the project. They provide that the only obstacle at this stage to the provision of the facility is the final grant of planning. They wish this to be a Fáilte Ireland certified campsite.
- They note the applicants have been involved in tourism including the development of the Boyneside Trail campaign and relative to the subject site.
- It is not their intension to provide a trailer park. They provide details of the proposed use and note that the campsite will also operate through the winter period - October to March on a small-scale basis.

Environmental issues

- The previous application (LB17144) failed on two items, clarity on the flood justification test and the formal provision of cycling and pedestrian facilities. This application overcomes these reasons for refusal.
- They provide a description of views from various vantage points relative to the site and include photographs.

Wildlife and Ecology

- The NIS (relative to the previous application LB171441) was accepted by the DoCHG (NPWS) and the Department recommended a condition to a permission that the mitigation measures from the NIS be implemented.
- The NIS was prepared by Flynn Furney Environmental Consultants Ltd and is included with the current application. This concludes that the project will not have any impact of major significance on the designated sites.

- They include a graph to show that the presence of wintering birds will be minimal when the camp site is most occupied in the summer period.
- The proposed design and layout will minimise impact on wildlife and birdlife. They consider that if correctly managed the facility may have a positive overall impact on the area.
- The applicants inherent interest in the ecology of the area will ensure that the project when completed will provide a nett benefit to the wildlife both through the increase in foraging and habitat areas and through the ongoing education of the guests and locals through the provision of signage and hides.

Roads/Traffic issues

- The Planning Statement provides an analysis of the current traffic generation for the 24 Bay Golf Driving Range and that produced by the change of use. This includes that the proposed usage will generate less traffic.
- The design of the proposal re-uses as much of the existing infrastructure as possible.
- The requirement for the provision of cycling facilities for touring campsites is addressed in the planning report attached and the graphic indicating the provision in similar sites throughout Ireland.

Flooding and Drainage issues

- VCL met with the flood risk and transportation Engineers from the Council and agreed the modifications and clarifications which would be required in a revised application to address their concerns. These items are included in the revised application and the Council's decision to grant (LB180961).
- They provide details of flood defences on site including the flood protection bund and surface water drainage.
- The operators will adopt a monitoring and warning system based on information from Met Eireann, the Port Authority and local authority and will evacuate guests from the site in advance of a flood event forecast. They also note that all facilities on site will be water tolerant and in the unlikely event of a

1:200 year event the facility will be returned to operational condition with only minor cleaning and repairs.

- A program of annual monitoring and maintenance of the flood protection bund will be put in place, this will be in addition to the flood monitoring and warning system development in conjunction with McCloy Consultants.

Pedestrian Access

- They note that pedestrian and cycling access is not required for this type of touring facility. However, they are agreeable in the circumstances to provide this pedestrian access as the facility will benefit the shop and café use. Details are provided relative to the route of this access.

Regard to the Third Party Appeals

They include a separate response to the issues raised in each of the Third Party appeals. Some of these have already been mentioned and additional issues include relative to the following:

- While the Boyneside trail (now Newbridge to Newgrange) project is not essential for the proposed campsite to function, it will be a further excellent facility/attraction for locals, visitors and guests to the campsite.
- Flynn and Furney Environmental Consultants comments are noted relative to concerns raised by the Third Parties and in support of the Screening for AA and the information contained and conclusions reached in the NIS.
- They have regard to and provide a detailed discussion of photos and views provided by the Third Parties including relative to the impact on birds. They query some of these and their authenticity.
- The shots were taken of wildlife in locations varying from 250-1000m from the subject site and the wildlife is undeterred by the development and human activity in closer proximity and more exposed than the proposal.
- The analysis reinforces the message that the development of the proposal will not be detrimental to the integrity of the wildlife within the SAC and SPA.
- Condition no.2 of the Council's decision to grant should remain in order that the fears in relation to the development becoming a trailer park can be

allayed. They provide that the proposal is of a transitory nature and the site will be well maintained and will not result in pollution or anti-social behaviour.

- The playground and campsite are 350m from the nearest dwelling, and they note the screening provided by hedgerows and bunds. The poppy meadow referred to by the Third Parties is not within the subject site. Poppies and green space are not under threat in this proposal.
- The subject site is adjacent to zoned lands and they consider the location of the site is optimum in relation to zoning.
- They note that the proposed pedestrian route is within the private lands in the ownership of Riverside Gift Shop. The pedestrian route will not serve any function other than to provide access to the shop and campsite.
- As outlined in the FI submitted, many examples of touring campsites throughout the county were provided indicating that pedestrian and cycling facilities would not be required. In view of the previous history they have now taken appropriate measures to provide such.
- They provide that NIS and EIA screening have determined that the proposal will not significantly impact on the adjacent SAC and SPA. Also, the lands are defended from flood risk and any residual risk can be appropriately managed and fully protect persons using the facility.
- The proposal will enhance tourism in the area, will not create a flood risk for adjacent properties, it will not impact on the use of the Fishmeal Quay for the port use, third party observations have been addressed and the existing deficit of cycling and walking in the region is addressed.

6.3. Planning Authority Response

6.3.1. Meath County Council response has regard to the First and Third Party Appeals. The PA also note the further third party submission on the 6th of December 2018 and the submission from the first party on the 3rd of December 2018. They provide that they have no further comment in this regard.

6.3.2. In a subsequent response they have regard to the first party appeal against contributions and provide the rationale for the application of and the breakdown of

development contributions. They consider that the development contributions have been correctly applied.

6.4. Observations

6.4.1. These have been received from the following:

- Cllr. Tom Kelly
- Mary and Desmond Kelly
- Birdwatch Ireland

Some of the concerns have already been raised in the grounds of appeal and are as noted above. Additional issues raised by the Observations are noted together under the following headings:

Environmental /NIS issues

- The environmental issues are inadequately dealt with.
- There is no Report on wildlife habitats including bird feeding habitat and species during the winter/summer periods.
- Adverse impact on views and this scenic area.
- Having regard to the issues raised including the proximity to the designated sites, it is requested that a full EIAR be carried out.

Birdwatch Ireland have submitted detailed Observations and are concerned that the NIS submitted is not robust. Information including survey work has not been submitted to confirm that the development will not impact adversely on bird life including designated species. It has not been adequately demonstrated that the proposal will not have a significant impact on the specific conservation objectives of the designated sites.

Traffic issues

- Further discussion relative to traffic congestion and associated pollution.

Drainage and Flooding

- Surface water drainage is not properly designed and suitable for the location in a flood plain.

- There is no assessment of flood management measures in the site.
- Irish Water agreement is not in place.

Development Contributions

- The amount levied in Condition no.23 (€865) is not sufficient, relative to the proposed works.

Other issues

- Duplicate of the previous application which was refused.
- Meath Co.Co. Byelaws prohibit any temporary structures between the R150 and the Coast, as all the facilities are for temporary use they are all in breach of the Byelaws.
- There is no plan for Climate Change for the site.
- The proposed will bring a transient population to the area and the majority of local residents are not happy with the proposal.
- There is no supporting document from Fáilte Éireann.

6.5. Further Responses

Third Parties

Their responses to the First Party Response to the Grounds of Appeal have been noted. Many of the issues have already been raised in the Third Party Grounds of Appeal and in the Observations made. Additional points made include the following:

- They question the provision of a touring caravan park on the flood plain and query the potential effectivity and impact of the flood defences. Concerns about displacement of flood waters and health and safety issues. Flood Maps and photographs have been included.
- There is no permission for the 1.5/3.0/4.2m berms of soil quoted. A copy of the license to build these berms has not been submitted.
- The driving range closed due to repeated flooding of both the site itself and the shop.

- The impacts on Wildlife and Ecology have not been appropriately considered. The First Party comments on the lack of authenticity of the photographs of wildlife as submitted by the Third Parties is disputed and they note the abundance of bird life seen foraging in the area.
- They are concerned about the impact of the proposed use on the designated sites. The NIS cannot rule out potential negative effects on the species of conservation interest in the SPA.
- They are concerned about the lack of bird survey work and documentation submitted. They support the submission made by BirdWatch Ireland and concur with the conclusions therein.
- Concerns about opening hours and months of use and they query condition no.16 of the Council's permission.
- Disturbance impacts are not adequately quantified or assessed.
- The site is not well connected to the village of Mornington and there is a lack of roadside footpath links.
- Concerns from local residents regarding pedestrian/cycle links to the Riverside Gift Shop.
- The Boyneside trail is not commenced or completed.
- The proposed pedestrian route is not in the ownership of the applicant or the shop. The 'ancient lane' is prone to flooding, photos are included showing signage for the 'Bird Sanctuary' accessed via the lane.
- Comparing traffic volumes with this former short-lived use and the current use is immaterial. The proposal will add to traffic hazard in the area.

First Party

VCL Consultants have submitted a Further Response on behalf of the First Party. This is in particular in relation to the submissions from Meath County Council and Birdwatch Ireland. This includes the following:

- The current revised application was the culmination of the considerable planning assessments and works which had been completed both by the applicant and the design team in consultation with the Council.

- The Local Authority's position in relation to the principal of the provision of a quality tourism facility was very supportive with an acknowledgement that there were no comparable facilities within the region.
- On review of the current development contributions scheme they are satisfied that the existing development was non-residential and the change of use was to class 5 non-residential use and development contributions had been confirmed as paid in full, that the project would be exempt. Having regard to the area proposed for demolition, there has been a net reduction in floor area.
- In regard to the requirement for special contribution in condition no.24, they note that there is an overlap between condition nos. 9 and 24. If the works are carried out under condition no.9, there is no requirement for condition 24.
- They refer to the Flynn Furney Report confirming that there was extensive and sufficient existing survey work carried out on the designated sites and these were considered during the screening and assessment process.
- The maintenance works required for the bund are in response to the Council's request that the bunds be maintained and monitored as necessary. They will not be carried out in the October - March period.
- They provide a detailed response to the Observations of Bird Watch Ireland and relative to the information in the NIS and documentation submitted.
- There have not been any flood protection works carried out since the original development of the driving range in 2004/2005.
- When the driving range was operational there would be less lands available for foraging than the subject proposal.
- They note that the site did not flood periodically as it is above the 10 year flood level and the erection of the bund was to protect from exceptional events (200 & 1000 year).
- The flood protection bunds are already in place and to the correct height and therefore there is no requirement for them to be considered in the NIS.
- The issues raised by Birdwatch Ireland in relation to the NIS do not take into account the fact that there is an existing permitted development on the site,

being the driving range, covering an area of 8.5ha with on-site wwtp all of which can be brought back into operation through repair and refurbishment of the site and buildings, works which would not be subject to planning regulation. Any assessment of the potential impact from the proposal should be compared to the existing impacts from the driving range and not from a green field site.

- They note the positive benefits of the scheme, relative to economic boost to tourism in the area, traffic reduction from former use, better restrictions and regulation of dogs on the site and a reduction of activity on site during the months of October to March for wintering birds, the removal of the on-site wwts and diversion of all foul waste to the public sewer on the R151 .
- They request the Board to uphold the Council's decision with due regard to conditions relating to contributions.

7.0 Assessment

7.1. Principle of Development and Planning Policy

7.1.1. As shown on the East Meath Plan the lands are not within one of the zoned areas in East Meath but the entrance is within 200m of the Mornington-Donacarney zoning and the proposal includes an overland pedestrian route that connects to the R151 at the Mornington East Zoning. The site while adjacent to zoned lands is in the rural area and is not within a defined settlement as shown on the East Meath LAP.

However, it is noted that this is an edge of settlement site and that a commercial use has been previously established on this site through the development of the golf driving range (Reg.Ref.SA/40248 refers).

7.1.2. The First Party response to the grounds of appeal notes that the proposed development is for a change of use from the previously permitted driving range to a touring campsite and as such does not require zoning of the lands. As seen on site this use has been vacant for some time and the driving range units are now derelict and the shop is no longer in use. They provide that the development of a touring campsite will enhance the subject site, the entrance and surrounding area and provide a much needed facility to serve visitors to the area. The site location is within

a wider area of tourism potential where in the context of the development of Ireland's Ancient East and the Boyne Valley Tourism Strategy there is need for a development of this nature.

- 7.1.3. The Third Parties, who are primarily local residents are concerned about the nature and usage of the proposed development relative to its location on this sensitive site on un-zoned lands close to Natura 2000 sites. They consider that there will be an adverse impact from the proposed development on the character and amenities of the area. This includes regard to environmental issues, impact on the adjoining designated sites, flooding, traffic congestion and pedestrian access and regard to previous planning history and concern that the previous reasons for refusal have not been overcome. Regard is had further to these issues in the context of the Assessment below.

7.2. Rationale for proposed development

- 7.2.1. An Taisce and local residents are concerned that this application is for a similar development to that previously refused, Reg.Ref.LB171441 refers. Also, that the reasons for refusal in the previous application have not been overcome. The Third Parties consider that the proposed development is effectively the same as previously applied for apart for the addition of a walkway to the gift shop in Mornington via internal agricultural lands to the east of the development and further regard to flood mitigation measures. They consider that the addition of a footpath/right of way through a field adjacent to the site will not overcome the reasons for refusal and will compromise adjacent properties.
- 7.2.2. The First Party response to the grounds of appeal notes that the previous planning application failed on two items, clarity on the justification test relate to flooding and the formal provision of cycling and pedestrian facilities. They provide further details have been submitted and that both these items have been overcome in the current application. Regard is also had to these issues and to issues of design and layout and access.
- 7.2.3. They note that other Holiday parks have been developed particularly in the Bettystown and Laytown areas, primarily based on their seaside location. These comprise static mobile homes which are privately owned and occupied during the

summer months. This differs from the transitory nature of the current proposal. They consider that the project will transform the site from its current state to a touring campsite, maintained to a high level fulfilling a serious deficit in this type of tourist accommodation for the Boyne Valley Region and providing an economic and community benefit. They also note the applicant's role in the development of the Boyneside Trail campaign which has delivered the greenway from Drogheda to Oldbridge and is currently progressing the route from Drogheda to Mornington.

- 7.2.4. They seek to demonstrate that this proposal is in keeping with the proper planning and development of the area, acknowledges the importance of the adjacent SAC and SPA and protects the integrity of this site of international importance, provides for a much needed facility for the region to support the tourism industry with a nett positive impact on the local area and addresses in a practical and pragmatic manner the flood risk to the development and its guests in accordance with the requirements of the OPW guidance on the matter. Therefore, it needs to be determined as to whether the proposal can now be justified and that issues relative to the previous refusal can now be resolved in the current application.

7.3. Design and Layout and Usage

- 7.3.1. The First Party response provides that the design of the proposal seeks to re-use as much of the existing infrastructure as possible and they provide details of this. The existing access and entrance are to be retained. The existing pro-golf shop (now vacant and in poor repair) is to be re-designed with minor extensions to provide a reception building and campsite shop with an administration office at first floor. The existing driving range bays (now derelict) are to be re-designed to provide toilet and shower facilities and a camper's kitchen. The driving range bays to the south of the reception are to be removed and the area developed as the entrance barriers, reception pull in bays and a children's play area. There is also to be a parking area with electronic hook ups (included in the number of bays applied for) for motorhomes arriving after hours or guests returning in their cars after hours as no vehicles other than emergency vehicles are to access the site after 22.00.
- 7.3.2. They provide that in acknowledgement of the importance of the estuary the design of these facilities, including the provision of a 2.4m high screen wall linking the camper's kitchen and the reception building and the placement of all bays and tent

sites to the East of the facilities and reception building ensures that all activities on site are not only screened from the estuary by the soil bund but also aid the screening of the build structures. Existing hedgerows are to be retained and augmented. Details are also given of the sustainable use of lighting on site. It is provided that the area around the tents and bays will be lit with low level bollard lighting. Also, that the height and shielding of the lighting will ensure there is no light pollution into adjacent agricultural lands or out to the SPA and SAC.

7.3.3. The existing entrance to the R151 is to be retained and it is proposed to finish the existing wing walls with a stone and render finish. The access road is to be retained narrow with passing bays to effectively control on site speed. It is provided that, there will be sufficient space at the entrance that an existing vehicle or vehicles will not impede vehicles entering the site from the R151. Also, that the application allows for 3no. flag poles at the entrance to enhance the visibility of the development for first time visitors.

7.3.4. During the summer months it is expected that the site will be busy with a steady flow of motorhomes. Details are given as to how the facility will be set up and managed and it is noted that it will be a family run enterprise engaging additional staff on a seasonable basis. Relative to usage it is provided that to facilitate the few tourists who visit the area from October through March and to ensure the security of the site, it will be retained operational all year around. Off season campers will be maintained in the spaces closest to the reception building. This approach will result in operating at a loss during the winter months (anticipated average 2-3 units per night) but this will balance out over an annual period and in doing so they hope it will prevent unregulated off-season camping. It is noted that the Site Layout Plan shows the caravans/trailers centrally located on site with the camps/tents on the outer perimeter and centrally located green areas.

7.4. Impact on Road Safety

7.4.1. There is concern that this proposal will increase traffic congestion in the area, where the accommodation road is narrow and heavily trafficked. The Coast Road - R151, serves as the main road for residents of Laytown, Bettystown and Mornington to travel to Drogheda and locally as access to a number of recently constructed housing estates in the area and also to local schools. While the site is not serviced

by public transport, a bus service from Laytown to Drogheda travels this route several times a day. There is concern that this proposal which is for 75 hard standing and 24 tent pitches will include the use of caravan/trailer type vehicles and will adversely impact on the carrying capacity of the road which is currently substandard.

- 7.4.2. The First Party response notes that the subject site has permission for a golf driving range with 24 bays and a Planning Statement is included that provides an analysis of the current traffic generation for such and that produced by the proposed change of use. This finds that the permitted facility generates more traffic to what would result from the proposed change of use. It must be noted that as the site has not been operational for a golf driving range for many years and that the site appears vacant, that these comparisons could now be seen as arbitrary.
- 7.4.3. It is noted that the traffic will be seasonal with the highest generation during the summer months when normal traffic flows are reduced due to school holidays. The site will be used as a touring base and traffic visiting the site will comprise persons with tents travelling in cars, cars pulling caravans and motorhomes. They provide that guests will check in/out outside peak traffic times and that the site is within the 60kph speed zone. Also, that positive impacts are anticipated given access to new off-road route, reduced traffic volumes/congestion.

7.5. Pedestrian Linkages

- 7.5.1. The Council's Transportation Department notes that there are no footpaths or public lighting along this section of the R151 and that customers of the proposed development would have no safe access in Mornington or the beaches etc by foot. The applicant proposes to address this by providing an alternative route for pedestrians through lands to the east of the development, to the Riverside Gift shop, linking up with the existing footpaths on the R151. They note that the link uses the existing entrance to Riverside Gift Shop at which point the stopping distances available exceed 200m on the R151.
- 7.5.2. The third parties are concerned that the proposal to use an existing footpath within the grounds of the gift shop does not extend to the edge of the public road. Pedestrians are required to walk on the gravelled trafficked surface at the entrance which is undesirable and could create traffic hazard. They requested that drawings

be submitted to show the proposed pedestrian and cycle routes through the site of the Riverside Gift Shop including the crossing point on the R151 public road. Also, that the existing footpath and kerbs on the R151 be ditched to facilitate wheelchair access and note that a road opening licence maybe required to complete the works on the public road.

7.5.3. There is concern that the proposal will have an adverse impact on pedestrian safety as the area is lacking footpaths and street lighting. The road alignment needs to be agreed before any such development could commence as visibility for both pedestrians and vehicles is limited. Also, that the proposed pedestrian route will only connect to existing footpaths on the R151 going in an easterly direction. That there are no footpaths going in a westerly direction. The nearest village/amenities/town lie to the west of the proposed camp site. It is also noted that there is no access to a beach from the campsite. The applicant's proposal for an internal pedestrian route through the lands to the adjacent Riverside Gift Shop maybe problematic and could force pedestrians out onto the road and this would interfere with the safety and free flowing nature of traffic in the area. That insufficient details have been submitted to ensure public safety on the right of way, and that issues of anti-social behaviour and impact on the security of local residents need to be addressed. Also, that this proposed right of way is not in the interest of local resident's and once established will be difficult to reverse.

7.5.4. The First Party response to the grounds of appeal provides that the modification required to pedestrian facilities was the expansion of the project to include pedestrian access through the Riverside Gift Shop to the public footpath. They provide that this requirement was imposed despite the evidence provided showing that touring campsites, unlike mobile home parks, do not require access to pedestrian and cycling facilities. They note that without this facility, the site still has access to an 'ancient lane' running east-west immediately south of the site providing informal pedestrian access to a vehicular lane/shared surface and onto the R151 where there is access to the public footpath. The access route is identified as a blue line on their attached map and they also include a photo showing the pedestrian route on an 'ancient lane'. Notwithstanding the case for not requiring pedestrian and cycling access, the owners of the Riverside Gift Shop will agree to access on their lands to be included in the application as they provide that the facility will benefit the

shop and café bringing customers from the campsite for food and gifts. Also, that the provision of a formal pedestrian route with access limited to guests of the campsite or customers of the Riverside Gift Shop will enhance the security and privacy of local dwellings. The latter is refuted by local residents.

7.6. Land Ownership issues

- 7.6.1. Third Party concerns relative to the ownership issues are noted. In response a letter has been received from VCL Consultants to confirm that they purchased the lands which are the subject of this application in September 2017 and the registration of that ownership is ongoing. Eddie and Aileen Phelan are directors and owners of VCL Consultants. They attach a letter from their solicitors confirming that they are the beneficial owners of the lands, which includes the Folio number.
- 7.6.2. The ownership of lands for the proposed right of way/pedestrian link is also queried. The First Party response also provides that the pedestrian facilities will cross lands in the private ownership of the Riverside Gift Shop and will be for the benefit of customers of the gift shop and guests of the campsite. Separately, a letter of consent from the landowner has been submitted with the planning application relative to the proposed footpath adjacent to the site.
- 7.6.3. It is of note that the issue of ownership relative to third party lands/boundaries is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of S.34(13) of the Planning and Development Act: *“A person shall not be entitled solely by reason of a permission under this section to carry out any development”*. Under Chapter 5.13 ‘Issues relating to title of land’ of the ‘Development Management - Guidelines for Planning Authorities’ (DoECLG June 2007) it states, inter alia, the following: *“The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...”*

7.7. Impact on the Character and Amenities of the Area

- 7.7.1. There are concerns that this proposal if granted will impact adversely on the residential amenities of the neighbourhood and will not contribute to or serve to enhance the local area. Also, that it will introduce a transitory population who will

have no affiliation to the area, or contribute to the local community. There will be an increase in noise and light pollution and anti-social behaviour including illegal dumping and litter. They consider that along with the proposed right of way, this proposal will have a detrimental impact on scenic amenity and on wildlife and birdlife in the area.

- 7.7.2. A Visual Impact Assessment has not been submitted to show the impact of the proposed development on this scenic area. Part of the site is within a Protected View and Prospect as listed in the Meath CDP – *Boyne Estuary View from coast road between Mornington and Drogheda (past Grammar School)*. The First Party response has regard to the impact on visual amenity. Details are given including photographs of views to demonstrate that the site in view of the screening provided by the bund and existing hedgerows and the low-profile nature of the proposed development will not impact adversely on views. Planting and landscaping are to be carried out on the site.
- 7.7.3. The First Party note that the site has planning permission for a golf driving range, and consider the impacts of the current proposal will be less than the permitted use. This use has been vacant for some time and they are concerned that the site is subject to antisocial attacks on the structures and unregulated roaming of dogs. They provide that the subject site will be well maintained. They also note that outside the summer period there will be little activity on site. They agree to the inclusion of condition no.2 of the Council's permission. They also note support relative to a need for camping sites in the area and a positive impact on tourism and the economy in the East Meath Area and having regard to the location being within 'Ireland's Ancient East'. Boyne Valley Tourism suggest that in the event of a permission that to eliminate this becoming a static caravan park, that a condition be included that only touring vehicles and/or tents can be considered for this site.
- 7.7.4. If the Board decide to permit, I would recommend that this type of condition to ensure the transitory nature of the proposed development be included. I would also recommend that it be conditioned that the site be operational only in the period March – October and that it be closed during the winter period i..e November to March. This would result in lessening the impact of the proposed development so that it would be transitory as opposed to static and minimising the impact on the wintering bird population.

7.8. Development Contributions

- 7.8.1. Section 48 of the Planning and Development Act 2000, (as amended) details the methodology and guiding principles by which Development Contributions Schemes should be arrived at. The wording of S.48(10)(b) of the 2000 Act states that *'an appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the Planning authority'*. The wording of this section is restrictive in so far as it limits consideration of such appeals to the application of the terms of the adopted development contribution scheme and the powers of the Board to consider other matters.
- 7.8.2. The First Party have appealed Condition nos. 22 & 23 relative to the Council's Development Contributions. This is on the basis that the current Meath County Council Development Contributions Scheme 2016-2021 (as amended on the 1st of October 2018) has not been correctly applied and the calculation of the net additional floor area has been incorrectly completed. They provide that there should not be any development levies applied to this permission other than the special development levy (condition 24) as the current development contributions scheme allows an exemption for change of use from non-residential to alternative non-residential Class 1-5 where the development levies for the existing use have been paid in full. They note that the site is within the confines of the previous permitted non-residential development (Reg.Ref.SA/40248- Golf driving range – Condition nos. 17 (€904.40 – water infrastructure) and 18 (€2,606.80 – roads infrastructure) refer), and development contributions have been paid in full. They provide that the development as proposed has been retained within the limitations outlined in the current development contribution scheme and so benefits from the listed exemption.
- 7.8.3. Section 7.1 of the current Meath County Council Development Contributions Scheme has regard to Exemptions and Reduced Contributions. Section 7.1.3 is relevant to Non-Residential Development. This provides: *Changes of Use from existing permitted non-residential uses to residential or alternative non-residential uses (i.e. Classes 1-5) shall be exempt where development contributions have been paid in full for the existing use. Where the Planning Authority deems that additional public infrastructure is required to facilitate the development a Special Development*

Contribution may apply. It is of note that Classes 1-5 are described in *Exempted development – Classes of Use*, Part 4, Schedule 2 of the Planning and Development Regulations 2001 (as amended) refer. Class 1 refers to Use as a shop, Class 2 – financial/professional services, Class 3 – Office, Class 4 – Light industrial building, Class 5 use as a wholesale warehouse or as a repository. It is considered that neither the existing or proposed uses are included under Classes 1-5. Therefore, this element of the exemption would not apply.

7.8.4. The Planner's Report provides a breakdown relative to the application of the Council's Development Contributions Scheme. Section 6 of the Scheme provides the basis for determination of development contributions and 6.1 provides proportioning calculations. A complete breakdown of the development contributions payable in respect of the different classes of infrastructure is provided in Appendix B. The Council considers that the proposed development falls under *Non-Residential Development*, Class 5, Section 7 Schedule of Charges i.e.: *Open Storage, Hard Surfaced Commercial/Open Port Storage - €9 per sq.m.* It is noted that this compares with *Golf/Pitch & Putt Club - €250 per ha.* Note 4 of the table provides that *Class 5: Includes the use of land for the parking of motor vehicles, the open storage of motor vehicles or other objects and the keeping or placing of any tents, campervans, caravans or other structures. This category does not apply to hard storage space and car parking facilities provided ancillary to a particular development.* Therefore, this would appear to be the relevant Class.

7.8.5. Section 12 of the Planning Application Form provides that the g.f.a of the existing buildings is 621sq.m, of proposed works is 285sq.m and of demolition is 315sq.m. The Planner's Report notes that the existing buildings on site total 621sq.m and provide that the change of use of these buildings will not be levied, as levies were originally paid on these buildings as part of the driving range permission. They note that the new element of development totals 285sq.m and these will be levied. However, as the development relates to recreation the social infrastructure element of the levies will be waived on all aspects of the development. They note that the application proposes 75 pitches for campervans with each one having an approximate size of 30sq.m. They provide that the proposed grass space for tents is considered ancillary and will not be included.

- 7.8.6. In the Council's current permission Condition nos.22 and 23 have regard to the Development Contributions as per Section 48 of the Planning and Development Act 2000 as amended and to the Meath County Council Development Contributions Scheme 2016-2021 as amended. As noted above Condition no.22 relates to Roads infrastructure and provides for a contribution of €21,538 and Condition no.23 relates to the provision of surface water drainage infrastructure and provides for a contribution of €865.
- 7.8.7. Section 7.1.3 of the Scheme also provides: *Redevelopment of non-residential projects, development contributions shall only be levied on the net additional floor area.* The First Party note that the current proposal includes the demolition of the southern range driving bays and some of the northern bays resulting in a reduction in net floor area or the proposal from 621sq.m to 391sq.m (i.e. 230sq.m net reduction) the remaining development includes infrastructure being roads and motorhome/caravan parking or tent locations which are all comprised within what was the landing areas for the ball developed as part of the permission (SA/40248 refers) and has reduced the area containing infrastructure including serving motorhome/caravan parking. They conclude that this exemption should apply and the requirement for Condition nos. 22 and 23 should be omitted in order to benefit from the listed exemption.
- 7.8.8. The Council's response provides that while the new development is listed as Class 5 within the change of use exemptions, the original use was not and therefore this exemption does not apply. The exemption that was applied related to 7.1.3 of the Meath County Development Contributions Scheme i.e.: *Redevelopment of non-residential projects, development contributions shall only be levied on the net additional floor area.* Therefore, the existing buildings on the site totally 621sq.m were not levied and contributions were only applied to the new element of the development totalling 285sq.m. They also note that a further exemption was applied to the contributions in accordance with the Scheme which states: *Where a recreational facility is being provided within a commercial development, a reduction exemption on the amenity contribution, where deemed appropriate may be considered.* In this instance, the contributions that should have been applied were not conditioned. Therefore, they provide that the development contributions have been correctly applied and ask the Board to uphold their decision.

7.8.9. Having regard to the above I would consider that having regard to the exemption provided in Section 7.1.3 and in view of the element of demolition proposed and as no net additional floor area is being created that if the Board decides to permit that Condition nos. 22 and 23 should be omitted.

Regard to Special Development Contribution

7.8.10. Condition no.24, was originally not the subject of the First Party Appeal. This provides for a Special Development Contribution of €7,500 under Section 48 (2)(c) of the Planning & Development Act 2000 (as amended) *in respect of improvement works to the footpath and kerbs on the R151 in the vicinity of the site over the life of operation.* The Council's Transportation Department recommends that as part of these works required to facilitate the development appear to be outside the red line boundary of the site, the applicant should be requested to pay a special contribution of €7,500 as a contribution towards the cost of these works. Separately the Planner's Report provides a breakdown relative to the application of the Council's Section 48 General Contributions Scheme.

7.8.11. In relation to Condition no.24 the First Party's subsequent response to the Council's submission notes an overlap between the Council's condition no.9 and Condition no.24. In condition no. 9 the applicants are required to carry out works on the existing footpath and kerbs on the R151 to facilitate wheelchair access, while in condition 24 the applicants are required to pay €7500 as a special contribution to the LA for improvement works to the footpath and kerbs on the R151 in the vicinity of the site. They contend that if the works have been carried out under condition no.9 there will not by any reason for the LA to incur these costs.

7.8.12. Section 4.2 of the Council's Development Contributions Scheme has regard to the application of Special Development Contributions i.e.: *where specific exceptional costs not covered by a Scheme are incurred by the Local Authority in respect of public infrastructure and facilities which directly benefit the proposed development. The Planning Authority must specify in a planning condition attached to the grant of permission, the particular works carried out, or proposed to be carried out, to which the contribution relates.* In this case as noted by the Transportation Department and as shown on the Site Layout Plan the lands appear outside the red line boundary of the site. Therefore, should the Board decide to permit I would consider the inclusion

of Condition no.9 as inappropriate and would recommend that the Special Development Contribution as provided for in Condition no.24 be retained to provide for such works.

7.9. Flood Risk

- 7.9.1. The Third Parties provide that site and at times the road especially near the entrance to the proposed facility floods during high tides and heavy rain and their concern is that the proposed development will increase hard surfaces and thereby increase the risk of flooding in what is already a vulnerable area in a flood plain. They are also opposed to any displacement of waters in the flood plain area. They consider that any increase in existing flood defences on the site will only serve to redistribute the flooding somewhere else.
- 7.9.2. The East Meath LAP includes policies relative to Flood Risk Management including in the Mornington area. As shown on Map No.1A the site is located primarily in Flood Zone A and partly in Zone B. Volume 3 contains a Strategic Flood Risk Assessment. Section 6.5 refers to Development Zoning and the Justification Test relative to the Mornington East area.
- 7.9.3. A Flood Risk Assessment has been submitted with the application. This has regard to the locational context of the proposed development and its proximity to the 'main channel' of the River Boyne c. 500m to the north of the site and notes that the site lies c. 1.5km west of where the River Boyne meets the Irish Sea and is known to be tidally influenced upstream and downstream of the site.
- 7.9.4. Regard is had to 'The Planning System and Flood Risk Management Guidelines' 2009. This includes that the vulnerability of development to flooding depends on the nature of the development, its occupation and the construction methods used (S.2.19 refers). Table 3.1 provides a classification of vulnerability of different types of development. It is noted that water compatible development includes *water-based recreation and tourism (excluding sleeping accommodation)*. Section 3.5 notes planning implications for each of the flood zones i.e. Zone A – High probability of flooding, Zone B – Moderate probability of flooding. The latter includes: *Less vulnerable development, such as retail, commercial and industrial uses, sites used for short-let for caravans and camping and secondary strategic transport and utilities*

infrastructure, and water-compatible development might be considered appropriate in this zone. In accordance with Table 3.2 this is considered to be 'appropriate' in Flood Zones B,C. There is a need for a Justification Test to be met in Zone A.

- 7.9.5. The FRA has regard to OPW Flood Maps and Risk Maps. Figs. 3.2 and 3.2 refer and show the site is located in an area subject to tidal and pluvial flood events. The minimum level of the proposed development at the site is 2.41mOD. Areas of the proposed development at the site are considered to be Flood Zones A and B. The site topographical survey indicates that the site is surrounded by elevated lands ranging from 3.57mOD to 4.8mOD. In addition a 'flood defence bund' is located to the north of the site running along the River Boyne and rises to a level of 4.6mOD. While these elevated lands form protection from flood events, it is noted that the definition of Flood Zones is based on the undefended scenario and does not take into account the presence of flood protection structures. Appendix E of the FRA includes Flood Zone mapping based on site specific topographic survey, which shows the majority of the site in Flood Zone A. Details are given of proposed surface water drainage measures and of a Flood Evacuation Management Plan should a flood event occur. Table 5.2 provides a Summary of Flood Risks and Mitigation and Table 5.3 has regard to Residual Impacts. The FRA anticipates that flood risk to the site can be adequately addressed and they list the appropriate mitigation measures.
- 7.9.6. In the current application, the Council's Environment Section, has carried out an analysis of the Flood Risk Assessment. Reference is had to the OPW CFRAM flood mapping and the PRFA mapping for the relevant area, which shows that the development site is predominantly situated in Flood Zone A i.e where the probability of flooding is greater than 0.5% from tidal flooding; i.e is at high risk of flooding and Zone B i.e where the probability of flooding is between 0.1% and 0.5% from tidal flooding i.e is at medium risk of flooding. The site is also partially situated in Zones A and B with regard to Fluvial flooding. The site is also susceptible to Pluvial flooding. The development includes for the construction of a camping and caravan park which is classified as a 'less vulnerable development'.
- 7.9.7. The critical tidal levels of 0.5% AEP plus Climate change at 4.01mOD and for 0.1% AEP plus Climate change at 4.22mOD. Development levels on the site are c. 2.41m. No significant land raising is proposed as part of this development. A 'flood defence bund' running along the sites boundary with the River Boyne has levels of between

c. 3.6 and 4.5m. The applicant has indicated that this flood defence bund shall be maintained at a minimum level of 4.01mOD. The opening of the site is to be at 3.51mAOD and to incorporate a demountable barrier to a level of 4.01m prior to flood events. The access roadway to the site is to be constructed at a minimum level of 3.36m to facilitate emergency access. It is important that flood defence measures be adopted and maintained. The applicant has undertaken to implement a Flood Evacuation Management Plan. Flood resilient measures are to be incorporated into the building/proposed construction of the site.

- 7.9.8. The Council's Environment Section consider that the applicant has submitted sufficient information to address the Justification Test and recommends conditions. These include relative to details of the Flood Protection bund to demonstrate that it is fit for purpose and to submit a maintenance schedule for all flood protection measures including the bund and a flood demountable barrier, and flood evacuation management plan. Flood resilient construction measures and materials to be applied to all relevant construction and upgrading of buildings up to a minimum level of 4.22m AOD, and measures to be in place having regard to the access road. The foul sewage plant on site to be sealed to prevent the ingress of surface or floodwaters.
- 7.9.9. There is third party concern that the application has not improved flood defence walls around the proposed camp site which were deemed inadequate in the previous application and would be contrary to the DoEHLG flooding guidelines. Also, that the proposals re: flood defences while offering some additional protection to the main camp site will only disperse the tidal flow further out onto the R151 road, which is already prone to flooding and leading to the village of Mornington. It is noted that taking the flood risk into account, that alternative sites have not been investigated.
- 7.9.10. In response to the grounds of appeal the First Party provide that the current application has addressed the Council's concerns relative to flood risk in the previous refusal. They note that the site is protected from flooding on both the 1:10 year return flood and the 1:200 year flood due to the presence of raised lands and a flood protection bund. The level of a 1:1000 year flood is such that flooding of some of the site could occur. They note that a monitoring and warning system will be in place and the facility will be evacuated on a 1:10 year event so there should not be a requirement for emergency vehicle access. Also, that as all facilities will be water tolerant in the unlikely event of a flood exceeding a 1:200 year event the facility will

be returned to operational condition with only minor cleaning up and repairs. All electrical connections will be retained in waterproof connections or above a 1:1000 year level.

- 7.9.11. They note that as potential flooding is limited to tidal, the possible flood duration is limited. Flood events are most likely to occur during the winter months when occupancy will be at its lowest. They refer to the Flood Risk Assessment and provide that this demonstrates that the development of this facility will not have any impact on the flood risk to neighbouring properties, which are located some distance away. They provide that the existence of the flood defence bund, coupled with the proposed flood monitoring and warning system and the design of the infrastructure as water tolerant will protect the site, the investment and any occupants from the risk associated with, and up to a 1:200 flood event. Also, that there is no intention to increase the protected area and therefore there is no issue of displaced waters.
- 7.9.12. The second reason for refusal in the previous application on this site Reg.Ref. LB/171441 was relative to Flood Risk. The Council were concerned the insufficient information had been submitted to satisfy Criterion 2(ii) of the Justification test as required having regard to the location of the application site within an area identified as being at risk of flooding. They then considered that it had not been demonstrated that the risk of flooding at the proposed development site had been appropriately mitigated and that therefore the proposal was contrary to the DoEHLG Flood Guidelines 2009 "The Planning System and Flood Risk Management" and would be contrary to these section 28 (Planning and Development Act 2000 as amended) ministerial guidelines.
- 7.9.13. Note is had of the Justification Test in development management as provided in Box 5.1 of the 'The Planning System and Flood Risk Management Guidelines' 2009. It is noted that the lands are un-zoned and have not be designated for this type of use. The issue is now whether Criterion 2(ii) has been satisfied i.e does: *The development proposal include measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible.* I would consider it has been demonstrated that subject to the mitigation measures provided in the FRA, the proposal will not add to flood risk problems on what is an already vulnerable site in Flood Zone A. However, the proposal is to be located on a site that is dependent on the continued upkeep and maintenance of the flood defence bund and a Flood

Evacuation Management Plan. It is noted that alternative less vulnerable more compatible sites in Flood Zones B and C, including on zoned lands have not been considered. The Guidelines include regard to the sequential approach and investigation of alternatives and avoiding or minimising the risk (Section 3.1 Planning Principles). In this case, I am not convinced having visited the site and having regard to the documentation submitted that relative to the potential for flooding and the precautionary approach that this is the most suitable or desirable site for the location of the proposed development.

7.10. Drainage issues

- 7.10.1. There is concern that the proposed change from a waste water treatment plant to connect to the public sewer would cause undue pressure on the existing public services and pumping station and will have an impact on flooding. Also, that surface water drainage is not properly designed and suitable for the flood plain. It is queried how surface water drainage is going to be channelled to the drainage facility.
- 7.10.2. The existing facility is served by an on-site waste water treatment plant with percolation area. It is provided that due to the fluctuation in foul discharge (high during summer and minimal during the winter) and the location of the site adjacent to an SAC and SPA this method of disposal is not considered optimal. It is noted that there is a 150mm diameter foul sewer located on the R151 which drains to the pumping station in Mornington and is pumped to the Drogheda waste water treatment system, this is deemed a more appropriate disposal option. The First Party provide details of the system to be adopted on site to facilitate the level site and limited invert depth of the public sewer and note the provision of a sump and three phase pump adjacent to the existing structures on site with a rising main discharging to a manhole on site. They note that following this the discharge will drain under gravity for approx. 80m on site before discharging to the public sewer. They provide that the pump, rising main and 80m of the gravity sewer will remain privately owned and maintained by Boyneside Camping.
- 7.10.3. The drainage assessment carried out as part of the FRA study shows that the proposed development, without suitable mitigation, would result in an increase in both the rate and volume of surface water runoff from the site. Details are given of surface water drainage. Regard is had to the greater Dublin Strategic Drainage

Study (GDSDS) and to the implementation of the principles of Sustainable Urban Drainage (SUDS) including infiltration. It is noted that a full SUDS assessment of the proposal is included in the Flood Risk Assessment (FRA) attached to this application. It is provided that all storm water falling on the site will be disposed of on site and they note the use of soakaways. The roads and paving are to be impermeable but designed such that the water is channelled into the permeable stone layer beneath the impermeable pavement. They have regard to attenuation and storage capacity. They note that stormwater will be facilitated by surface water flooding of green spaces. They conclude that the proposal will not present a storm water flood risk to the development or to adjoining properties upstream or downstream.

7.10.4. An assessment of water supply and demand is also given. This notes that the estimated water demand for the development (peak) is sufficiently less than the available capacity of the existing water connection. They also note that they have included an upgrade to the watermain in their current proposals and include details of this. It is considered that drainage can be managed in accordance with the details submitted.

7.11. Other issues

7.11.1. Submissions have been received from Drogheda Port Company and they requested further consultations with the appropriate bodies to ensure that the proposal will not impact in any detrimental way on the existing activities of Fishmeal Quay in respect of IMDG Class 1 ship to shore operations. They note that the proposed development lies close adjacent to the navigation channel where close on 900 commercial ship transits take place annually. Vessels of up to 125m transit the estuary on a daily basis (tidal access accepted) within the 50m designated navigation channel. This area of the river has two sharp bends requiring vessels to make substantial ship course alterations. They are concerned about night time usage at the proposed campsite would lead to: 'back scatter' lighting which would impact on navigation and safe conduct on the navigation of the vessels.

7.11.2. They also have concerns about flooding issues and requested that further information be submitted in the form of flood modelling studies to determine possible impacts associated with the displacement of water, sea level rise and increased

storm surge impacts. They also note proximity to the Natura 2000 sites and concerns on the impact particularly on birdlife in the adjoining Boyne Estuary SPA and Boyne Coast and Estuary SAC. They requested the Council to consult with the NPWS in relation to its findings and comment in relation to the NIS.

- 7.11.3. It is also noted that Irish Industrial Explosives Ltd (IIE) use Fishmeal Quay, Mornington for the importation of International Maritime Dangerous Goods (IMDG) Class 1. Fishmeal Quay is located approx. 548m to the north east of the applicant's land holding (Fig. 1). This is the main destination for IMDG products into the Republic of Ireland, with a current limit of 30 tonnes and the only destination permitted in the RoI for this scale of activity. It is noted that this activity is well established. IMDG Class 1 products are an essential input into a number of industries including mining, quarrying and civil engineering and related construction activities. These industries/activities include a number of large operations in Co. Meath including Tara Mines in Navan, Irish Cement in Platin and numerous other smaller operations.
- 7.11.4. Fishmeal Quay is State owned, purchased by the Dept. of Communications, Marine and Natural Resources in c.2000 in the national interest to secure the location for the importation of IMDG Class 1 products. There is no objection to the principle of the proposed development subject to details of the minimum distances of the development to be maintained from the designated berth. They advise that Clarification of these distances to be sought from the relevant government department. They also have regard to The Explosive (Drogheda Port Company) Bye-Laws, 2018. They note that the applicant has stated in the current application that the nearest point of the landholding is c.570m from the IMDG site. They also state that the nearest camping bay is 600m and therefore is in excess of the Explosives (Drogheda Port Company) Bye Laws 2018. They request that if permission is granted that it be conditioned that a distance of 600m is maintained to any built element on the site, and that no further changes to the Site Layout Plan as submitted and the location of the touring camping stands be permitted. They provide that in addition the appropriate evacuation plans and safety plans must accompany any development that is to take place.
- 7.11.5. The First Party response notes that in advance of submitting the application discussions took place with the Port Authority to discuss the proposal. Also, that the

Port Authority raised the issue of distance from the Fishmeal Quay and any impact the proposal may have on the ability of the port to retain their licence for the importation of large quantities of explosives. They provide that VCL (their agents) reviewed the Bye-laws in relation to Fishmeal Quay and issued a report to Drogheda Port demonstrating that the limitations on separation distance for licencing was the location of the adjacent houses on the Crook Road which are located 470m from the Quay. They note that the nearest camping bay proposed at 600m from the quay is substantially in excess of the required separation distance between an occupied building and a berth. They note that the closest point on the site boundary is 570m which is also substantially in excess of the 174m to a person in the open. They provide that all dimensions are taken from a calibrated OSI Map (attached) and attach a copy of VCL's report to the Port Authority incorporating the appropriately scaled mapping. They also have regard to the issue of expansion of the port business should that occur. They include a table providing the separation distances of the site boundary from Fishmeal Quay land holding. They provide that the development of the campsite will not impact on the continued use of the Fishmeal Jetty for the importation of large quantities of class 1 explosives. Also, that it has been demonstrated that the proposal when developed will not impact on the importation abilities at Fishmeal Quay as adjacent dwellings on the Crook Road are the limiting receptors for these activities.

7.11.6. While regard is had to these issues, it is considered important in the interests of public health and safety to ensure and retain the necessary safety distances from the said facilities. It is of note that the issue of the application and compliance with the Bye-laws is not within the remit of the Board.

7.12. Screening for Environmental Impact Assessment

7.12.1. It has been requested by the third parties that in view of the nature of the proposal and its potential to impact adversely on the environment that an EIA be undertaken and a full EIAR be available in advance of any decision. There is also concern that there is no evidence on file that the requirement for a sub-threshold EIA has been screened out.

7.12.2. An EIA Screening Report has been submitted with the application. This has regard to the locational context of the development and the former permitted driving range

use. This notes that screening is the first stage in the EIA process, whereby a decision is made or whether or not an EIA is required. This includes regard to whether there is a need for a mandatory or sub-threshold EIA.

- 7.12.3. Reference is made to Class 12 *Tourism and Leisure* of Part 2, Schedule 5 of the Planning and Development Regulations 2001 (as amended) i.e 12 (d): *Permanent camp sites and caravan sites where the number of pitches would be greater than 100*. On the site layout plan submitted with the application, it is stated that there are 75 pitches and 24 areas for tents i.e in total the number of pitches is 99, and as noted in the documentation submitted it is intended the campsite be of a transitory rather than permanent nature, therefore a mandatory EIS is not required. In respect of the stated small scale of the project it must be noted that the proposal if it were for a permanent camp and caravan site is at 99 pitches just below the threshold for a mandatory EIA.
- 7.12.4. However, reference is had to Schedule 7 of the said Regulations which applies to sub-threshold development i.e -*Criteria for Determining Whether Development Listed in Part 2 of Schedule 5 should be subject to an EIA*. This has regard to the *Characteristics of the proposed development and the Location of proposed development and Type and characteristics of potential impacts*. This includes regard to the environmental sensitivity of geographical areas likely to be affected by the proposed development including: 2(c) *the absorption capacity of the natural environment* and of relevance in this case, regard to: 2(c)(v) *areas classified or protected under legislation, including Natura 2000 areas designated pursuant to the Habitats Directive and the Birds Directive*.
- 7.12.5. The EIA Screening Report provides that the nature of the proposed development would not be considered likely to have significant effects on the environment. The size of the proposed development would not be considered significant as it is relatively limited in extent, involving the use of only 3.4ha of land from a total site area of 14.7ha. The footprint of the proposed development is therefore small relative to the lands of this type. In addition to this, the proposed project will not be on agricultural lands in active use, being fallow lands, which are not productive. They note that no additional waste material (e.g spoil) will arise from the proposed works. Existing spoil and other unwanted materials existing on site may be utilised on the landscaping element of the project (e.g earth banks and bund restoration). Waste

from the operational phase of the project will be gathered in designated locations. It is to be segregated and recycling carried out. It is provided that no wastewater will escape the site as it will be captured on-site and transported away via mains sewerage.

- 7.12.6. They note that there will be additional noise levels associated with the site but that there are no noise sensitive receptors in close proximity. Disturbance to bird species is an impact considered in the NIS. However, they provide that if mitigation measures described were to be implemented the negative effects would be much reduced in significance. They note that works will be carried out in accordance with a Construction Environmental Management Plan and will be subject to ongoing inspections from the project ecologist. They provide that the lack of significance of the above potential impacts arising from the nature of the project would thus indicate that in-combination impacts may not be considered significant.
- 7.12.7. Section 4 provides a Screening Assessment and Section 4.1 provides a table detailing the Characteristics of the Proposed Project. This includes relative to the use of Natural Resources that the project will use natural materials excavated locally as part of the construction phase of the project. Soils that occur in-situ will be used within the works area. There will also be materials arising that are unsuitable for use in construction but may be suitable for habitat creation or improvement of bunds. It is noted that the amount of material to be infilled will be below the threshold for an EIA and no bedrock will be removed from site. No abstraction of groundwater or from watercourses will take place. No pollution impacts to the estuary or other water bodies are predicted. While the project will require the use of existing public roads for construction traffic it is not predicted that there will be additional traffic on the roads at operational stage. No significant impacts as a result of or in combination with enhanced climate change are predicted. It is provided that best practice guidelines and construction methodologies will be followed.
- 7.12.8. Table 4.2 has regard to the Location of the Proposed Project. They note that *Moderate Adverse* significance of impacts has been predicted on some bird species as arising from the proposed works. However, they provide that these will be of a temporary duration during construction phase and that detailed mitigation measures have been drawn up to address these. Also, that no long-term impacts of

significance are predicted for this site. Regard is had further to this issue relative to the assessment of the NIS below.

7.12.9. Section 4.3 provides a table relative to Type and Characteristics of Potential Impacts. The magnitude of impacts from the proposed works is not considered to be significant in view of the small size and scale of the works including the hard standings and on-site road construction works. No impacts outside the area of the works are predicted. Any negative impacts identified will be temporary during construction period and will readily be reduced by adherence to best practice site management and adherence to a Construction Management Plan. They note that long term positive impacts maybe predicted arising from the completion of the campsite as a tourism resource allied with the development of the Boyneside Trail. The lands at the project site would be readily returned. They provide that the completed site will offer potential for habitat for a number of species, including bird species (e.g from use of native trees in the landscaping).

7.13. **Conclusion relative to Screening for EIA**

7.13.1. Section 4.4 provides a table relative to the *Significance of Potential Impact*. The EIA Screening Report concludes that there will be no significant direct or indirect impacts by virtue of the location of the proposed development on the receiving environment. They provide that no negative impacts are anticipated on infrastructure e.g traffic, water or on cultural heritage or architectural significance are predicted. No protected views of prospects of national importance occur in this location. No in-combination impacts are predicted. No likely significant long-term or permanent negative environmental impacts have been identified in the screening process. The overall conclusion of this screening exercise is that there should be no specific requirement for a full EIA of the proposed development.

7.13.2. Having regard to the nature and scale of the proposed development it is considered that the issues arising from the proximity/ connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment) as there is no likelihood of other significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.14. Screening for Appropriate Assessment

- 7.14.1. Regard is had to the NIS (May 2018) submitted with this application. Table 1 provides a list of Natura 2000 sites with 15k of the proposed development. The site is adjacent to but not within the Boyne Estuary SPA and the Boyne Coast and Estuary SAC. It is proximate to the banks of the Boyne River, and its importance for wintering birdlife is noted. There is concern that the proposed development will impact negatively on the qualifying species and conservation objectives of these sites. It is noted that the Boyne Estuary SPA (004080) overlaps with the Boyne Coast and Estuary SAC (001957) and the River Boyne and River Blackwater SAC (002299). It is provided that the conservation objectives for this site should be used in conjunction with those for the overlapping SACs as appropriate. The Conservation Objective generally is to maintain/or restore the favourable conservation condition of these Natura 2000 sites including their habitats and species. This includes, as an integral part, the need to avoid deterioration of habitats and significant disturbance, thereby ensuring the persistence of site integrity.
- 7.14.2. Table 2 in Section 3 of the NIS has regard to the Conservation Interests and Possible impacts and Table 3 a Description of Possible Impacts with particular regard to Annex II Birds Directive bird species. Table 4 provides the Criteria for Assessing Significance of Effects. This concludes (Section 3.3): *that the significance of impact of the potential disturbance to feeding waders and nesting birds would be Moderate Adverse, given that a temporary disturbance to a site of international importance is possible, but no permanent damage would be incurred.* They note that measures shall be required to mitigate against the effects as described in Table 4, these are detailed in Table 5 *Recommended Mitigation Measures* and also, in the AA matrix given in Appendix B. It is provided that, these will also address the potential existing impacts of casual visitors to the site and dog walkers.
- 7.14.3. It is noted that the Boyne is the second most important estuary for wintering birds on the Louth/Meath coastline. Nationally important species include Shelduck, Golden Plover, Lapwing, Knot, Black-tailed Godwit, Redshank, Turnstone, Little Tern, Oystercatcher, Grey Plover and Sanderling. Other species of local importance include, Brent Goose, Wigeon, Teal, Mallard, Dunlin, Curlew and Ringed Plover.

- 7.14.4. The NIS states that the planning application site is within 30 to 120m of the Boyne Estuary SPA. The site is separated from the Estuary and the SPA and SAC by a continuous 1.5 -3.0m high berm of soil. There is concern by the third parties including the Observer Birdwatch Ireland that while a flood defence bund has been erected around the land which has separated the field from the Boyne SPA that waterbirds may still use the land for feeding and roosting and that the extent of this usage has not been determined as no proper bird survey work has been carried out. They consider that a wintering waterbird survey should be conducted at the appropriate time of the year, using the appropriate methodologies and by a qualified ornithologist to determine use of the site by the SCIs. Also, that the land remains ecologically connected to the SPA in terms of the potential disruption to habitats. They provide that the issues relating to the flood defence bund need to be examined. The assessment of the operational activity of maintaining the bund as part of the current planning activity needs to be considered as part of the NIS. Consequently, they provide that it is not possible to assess the impacts of the proposed development without baseline information. It is the view of BirdWatch Ireland that the best scientific knowledge in the field would include detailed ornithological survey work detailing the use of the site by SCIs if any and their interaction with the Estuary.
- 7.14.5. There is also concern that the impact of the proposed development has not been adequately assessed relative to the Conservation Objectives of the SPA. In particular Conservation Objective 1, i.e: *To maintain the favourable conservation condition of the non-breeding waterbird Special Conservation Interest species listed for Boyne Estuary SPA*. Also of note is Objective 2 which seeks: *To maintain the favourable conservation condition of the wetland habitat at the Boyne Estuary SPA as a resource for the regularly-occurring migratory waterbirds that utilise it*. Also, that regard had not been had to the Conservation Objective Supporting Document and that the proposal will have a negative impact on the natural amenities including wildlife and birdlife of the area. This outlines disturbance impacts on conservation interest of the site as well as the importance of ex-site sites as foraging and roosting sites for birds. Regard also needs to had to the ecological impacts of displacement.
- 7.14.6. The Site Synopsis for the Boyne Coast and Estuary SAC (Site Code:001957) is selected for the following habitats: Estuaries, Tidal Mudflats and Sandflats, Annual vegetation of drift lines, Salicornia Mud, Atlantic Salt Meadows, Embryonic Shifting

Dunes, Marram Dunes (White Dunes), Fixed Dunes (Grey Dunes). This includes regard to the sand dune systems in the site, at Baltray Co.Louth and Mornington Co. Meath, which are described as being of 'conservation value'. Details are also given of the vegetation in the SAC.

- 7.14.7. The Site Synopsis provides that the SAC has been somewhat modified by human activities. The river is regularly dredged to accommodate cargo ships, with causes disturbance to the bird, fish and invertebrate communities in the estuary. Several factories operate upstream from the estuary and pollution and disturbance associated with them has had an impact on the ecology of the area. There is a proposal to create a deep water facility at the north end of Mornington Dunes on the mouth of the Boyne estuary. The site is of considered conservation interest as a coastal complex that supports good examples of eight habitats that are listed on Annex 1 of the E.U Habitats Directive, including one which is listed with priority status, and for the important bird populations that it supports.
- 7.14.8. The Conservation objective aims to define the favourable conservation condition of a habitat or species at a particular site. Implementation of these objectives will help to ensure that the habitat or species achieves favourable conservation status at national level. The Conservation Objectives – coastal habitats include regard to the importance of Mornington saltmarsh (Appendix III). The overall objective is to maintain/restore the favourable conservation condition. This provides: *At Mornington, the saltmarsh structure is well-developed in some sections, although it has been modified in places by drainage channels.* The target is to maintain a flooding regime whereby the lowest levels of the saltmarsh are flooded daily, while the upper levels are flooded occasionally (e.g. highest spring tides). Also, included are a number of targets including to maintain 90% of the area outside of the creeks vegetated, and eliminating negative indicator species.
- 7.14.9. There are two areas of sand dune, at Baltray and Mornington (Appendix IV refers), which lie on opposite sides of the mouth of the estuary. Both sand dune systems occur adjacent to extensive estuarine saltmarshes. There are objectives for 'Fixed coastal dunes with herbaceous vegetation' and 'Embryonic Shifting dunes' to restore them to favourable conservation condition. It is provided that at Mornington (Appendix VI), the extent of the fixed dune habitat is affected negatively by human induced erosion due to recreational activities. The target is to maintain the range of

coastal habitats, including transitional zones, subject to, natural processes, including erosion and succession. It is noted that grazing is absent from the Mornington sub site. There is a target to maintain a typical flora for the particular sand dune habitat. There is a need to ensure that human activity and the walkway planned for the linkages from the development site would not encroach on the Natura 2000 sites.

7.15. Designated sites – First Party Response

- 7.15.1. The First Party response to the appeal includes recommendations from Flynn and Furney Environmental Consultants. This acknowledges the proximity of the designated sites. It provides in summary that the conservation objectives and associated documents were examined but it was concluded that the proposal did not give rise to significant impacts on range, timing or intensity of use of the adjacent designated sites. They provide that designated bird surveys were not carried out as there was sufficiently previously completed work to allow accurate assessment. It was determined that the activities on site had the potential for impacts of a moderate negative significance, but mitigation measures have been included to counter these and are condition in the decision to grant – Condition no.3 of the Council’s permission refers.
- 7.15.2. They note that the predominant habitats occurring on the site area common to the area and the beneficial element of this habitat (grassland) will be increased by the proposed works. They provide, that the majority of bird species are not dependent on ex-situ grassland but on the coastal/estuarine habitats of the SPA. They note that the NIS concluded that the development did not pose a significant risk to qualifying interests. The use of the proposal during the winter months will be significantly limited and reserved to areas furthest from the important feeding area. The proposal and its activities are significantly screened from the designated sites. Existing disturbances from uncontrolled dog walking will be reduced by the operation of the proposal providing an overall positive impact on the designated sites. They query some of the photographs submitted by the Third Parties and provide that the site when developed will not impact on the wildlife photographed. Also, due to the landscaping and open space provided it is hoped that they will be encouraged onto the lands in and around the proposed campsite. It is provided that that the site has been designed to afford complete screening to birds feeding in the adjacent SAC &

SPA, the use of the site will be minimal when the species of interest are present on the site, the separation of the site boundary from the ownership boundary will mean that the project will retain as much of the existing foraging areas as possible and this coupled with setting the front field to grass rather than cereal crop will result in a significant increase in foraging areas for the overwintering birds.

- 7.15.3. The construction activities to develop the campsite will be limited to excavation and laying the roads bays and services and minor extension to the reception building, all other works to be in the existing buildings. Works to the existing bund are to be limited to assessment inspection and localised maintenance/repair. As there is no direct storm outfall from the site there is no hazard of contaminants from the site activities into the SAC or SPA and as the on-site wastewater treatment plant is being removed and a connection to the public main formed in lieu of the potential of contaminants from the treatment plant is removed completely.
- 7.15.4. The First Party also provide that the lights from all activities on site and on the access road are screened from the SAC and SPA due to the flood defence and shielding of structure mounted lighting. They note that the SAC and SPA are important areas for feeding of overwintering birds, and that the presence of these birds will co-inside with the winter period when the use of the site is minimal.
- 7.15.5. The NIS concludes that the project will not have any impact of major significance upon any of the qualifying interests of the Boyne Estuary SAC or Boyne Coast and Estuary SAC and the First Party provides that in fact, through enhanced control of existing activity may provide a positive impact.

7.16. Conclusion relative to NIS

- 7.16.1. There is concern that the NIS has not been under pinned by bird survey work including relative to wintering water birds. It is noted that Birdwatch Ireland considers that the NIS is flawed as bird survey work has not been carried out on the site and that that regard needs to be had to the ecological impacts of displacement and that the assessment is inadequate as a result. They provide that a wintering bird survey of the site should be conducted at the appropriate time of the year, using appropriate methodologies and by a qualified ornithologist to determine use of the site by the SCI's. The Third Parties are also concerned that the graph submitted is not relevant

as overwintering birds are not present in the summer months. The First Party response notes that a bird count on the subject site would not be appropriate unless the permitted driving range was re-opened and the bird count assessed at that point. However, I would not consider this would now be appropriate, as that use does not appear established and has been vacant for some time.

7.16.2. While there is a bund around the northern part of the site to provide a defence against flooding, it is not considered that this limits the potential for use of the site by waterbirds for foraging and roosting. Also, there has been no assessment of the proposed site for the campsite relative to disturbance and as a potential ex-situ site and the loss of habitat for foraging and roosting. This includes regard to construction/operational phases and to noise impact and light pollution and human disturbance during operational phase. BirdWatch Ireland are also concerned that the detailed Supporting Document for the Conservation Objectives for the Boyne Estuary was not referenced in the NIS and only the general Conservation Objectives.

7.16.3. Since the conclusion is that these important issues have not been adequately surveyed or assessed, it is considered that it cannot be definitively stated that there are no likely significant impacts on the Conservation Interests of the Boyne Estuary SPA. Having regard to the lack of information submitted and to the precautionary principle I am not convinced that it has been demonstrated that this proposal would not have a significant effect on the qualifying interests of the proximate SPA and SAC Natura 2000 sites.

8.0 Recommendation

8.1. I recommend that the proposal be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. On the basis of the information provided with the planning application and appeal and in the Natura Impact Statement and in light of the assessment carried out above, 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 SPA (004080) and the Boyne Coast and Estuary SAC (001957), or any other European site, in view of

the sites Conservation Objectives. In such circumstances the Board is precluded from granting permission.

2. The site is located within and proximate to the flood plain of the tidal estuary of the River Boyne and as shown on the OPW Flood Maps is primarily in Flood Zone A in an area at risk of tidal and fluvial flooding. On the basis of the submitted documentation, the Board is not satisfied that the applicant has provided sufficient information to demonstrate compliance with the Planning principles in Section 3.1 of 'The Planning System and Flood Risk Management Guidelines for Planning Authorities, November 2009', to apply the precautionary approach and to show that alternative more reasonable sites are available in areas at lower flood risk. The proposed development, which is not water compatible in that it includes sleeping accommodation, would, therefore, constitute an unacceptable risk of flooding, to future occupants and would conflict with the said Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

19th of February 2019