

An
Bord
Pleanála

Planning Appeal Form

AN BORD PLEANÁLA	
LDG-	<u>075047-24</u>
ABP-	<u>320887-24</u>
23 SEP 2024	
Fee: € <u>220.00</u>	Type: <u>CAPP.</u>
By: <u>HAND</u>	

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Eastern Gaels GAC

(b) Address

49 Beach Park, Laytown, Co Meath

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

n/a

(b) Agent's address

Click or tap here to enter text.

Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the
address in Part 1

☒

The agent at the address in
Part 2

☐

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Meath County Council

(b) Planning authority register reference number

(for example: 18/0123)

LBS52451

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Tower Road, Mornington, Co Meath

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

As attached

Signed:

Pearse Cdy

Chapman

Easton Goals GAC.

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

Yes, I wish to request an oral hearing

☐

No, I do not wish to request an oral hearing

☒

NALA has awarded this document its Plain English Mark
Last updated: April 2019.



Grounds for Appeal

Appeal on the decision of Meath County Council that the proposed development being the laying out of a football pitch at Tower Road, Mornington, Co. Meath as Class 33(c) development to Column 1 of Part 1 to the Second Schedule of the of the Planning and Development Regulations is not an exempt development as outlined in Section 5 of the Planning and Development Acts 2020 – 2022 Declaration on Development/Exempted development.

Appellant:	Eastern Gaels GAC
Correspondence Address:	49 Beach Park, Laytown, Co Meath
Planning Reference number:	LBS52451
Planning Officer (PO):	Nathan Cooney, Executive Planner
Date of Decision:	27/08/2024
Location of proposed development:	Tower Road, Mornington, Co Meath

Foreground.

Eastern Gaels GAC was approved for registration by Meath County board in February East Meath.2023 to provide much needed GAA playing facilities and participation opportunities for the young people of East Meath. In an area of 28,000 people there was only one existing GAA club with two full length playing pitches. There are five national schools and three secondary schools in the area, none of which have any GAA playing facilities.

In accordance with our mandate, Eastern Gaels negotiated a 16-year lease on 10 acres of land in Mornington to provide one football pitch on a portion of the site – approximately 40% of the total area. This land had previously been used as a football pitch by Star of the Sea GAA in the late 1970's and had since lain fallow and been used for silage production. The site was attractive as it required little or no development work, just ploughing, re-seeding and the erection of goalposts. The only intended use for the pitch is to provide training facilities for adult members in the Spring and Summer months and the provision of an academy one hour every week to young boys and girls, many of whom are from families recently arrived in the area and we are assisting in their integration in the community. The club recognises the sensitivity of the adjoining area and has no further development plans or ambitions for the site. All competitive home matches are played on existing facilities in Gormanston College.

It is important to note that the proposed development site is wholly located outside of any European sites. The closest European sites to the proposed development are the Boyne Coast and Estuary SAC and Boyne Estuary SPA and situated approximately 100m west of the proposed pitch at its closest point and separated by a berm. The North-West Irish Sea SPA is situated approximately 1.5km to the east and the River Boyne and River Blackwater SAC is situated approximately 2.5km to the west. There are no watercourses within the proposed development site. The closest watercourse is the Morning-ton Stream (EPA code: 07M55) situated approximately 300m to the east as it enters the Boyne Estuary.

As the development is a Class 33 development consisting of the laying out and use of land for sport where no charge is made for admission of the public to the land, we applied to Meath County Council for a certificate of exemption under Section 5 of the Planning and Development Act 2000-2022. This has been refused by Meath County Council.

Grounds for Appeal.

1. The PO has based his decision with heavy reliance on the Planning Inspector's assessment regarding the NIS submitted under LB/180961 and quotes this extensively throughout his report. This was a planning application for a separate distinct site and a totally different type of development and should not have been giving the weight of consideration it apparently has been. The documentation relating to that planning application and ABP Appeal (LB/180961 – ABP-302948-18) is so extensively used in the PO's report and in such a manner (italics, non-italics, inverted commas, plain type) that it becomes almost impossible to decipher if that material is in fact the Planning Officer's own report.

2. The PO noted in para 1 Page 9 "As stated by the Planning inspector under the previous application on neighbouring lands, it is considered to rule out impacts on the Conservation Interests of the Boyne Estuary SPA, the appropriate wintering bird survey of the site should be carried out at the appropriate time of the year" (sic). From the text, we take it that the PO is suggesting that a wintering bird survey should be carried out as part of Application LBS52451. The AA Screening Report by Gannon and Associates (copy attached) specifically stated in 3.2 that ***"Winter bird surveys of the estuary directly west of the proposed development site were undertaken by INIS Environmental Consultants Ltd. in 2018 to inform the proposed Boyne Greenway (Drogheda to Mornington) planning application. Results indicate that the area of estuary closest to the proposed development site is not utilised by significant numbers of waterbirds (INIS Environmental Consultants Ltd, 2020). In addition, no significant roosting sites were identified along the edge of the estuary at this location (INIS Environmental Consultants Ltd, 2020). This supports previous survey data collected to inform the Boyne Estuary SPA (from the 2011/12 Waterbird Survey Programme) which similarly shows no roosting locations of SCI species of the SPA along the edge of the estuary closest to the proposed development site (NPWS, 2012c)."***

Additionally, the Gannon Report stated that ***"The habitats within the proposed development site (comprising terrestrial grassland) do not conform to habitats listed in Annex II of the Habitats Directive. The potential for the habitats within and adjacent to the proposed development site to support qualifying interest (QI) or special conservation interest (SCI) species from any European sites on an ex-situ basis is discussed below. The qualifying faunal species of nearby European sites cumulatively comprise otter, lamprey, salmon, kingfisher and a number of overwintering waterbird species."***

There are no watercourses within the site and therefore no suitable habitat for otter, kingfisher, lamprey or salmon. As such, there is no potential for ex-situ effects arising from the proposed development.

Some of the SCI overwintering waterbird species of nearby SPAs (namely golden plover and lapwing, and to a lesser extent oystercatcher, black-tailed godwit, grey plover and redshank) can utilise terrestrial habitats to varying degrees for foraging at times during the winter (NPWS, 2012c). These species rely on short sward heights for terrestrial foraging grounds (Gillings & Fuller, 1999), and are known to utilise grazed agricultural grassland/pasture, managed amenity grassland and arable/stubble farmland (NPWS, 2012c).

The proposed development site comprises part of an agricultural field that has been used for silage production. This habitat type is typically not favoured for foraging for the above SCI species, unless the sward height is kept low for the winter period (NPWS, 2012c). However, the short-sward amenity grassland habitat typical of sport pitches are suitable foraging grounds for such species. The regular mowing for the maintenance of the proposed sports pitch as part of the proposed development will create suitable additional ex-situ foraging ground for SCI species of the Boyne Estuary SPA."

In addition, the promoter of the proposed Touring Campsite on the adjoining property (Sa/40248-ABP-302948-18) subsequent to the ABP decision engaged ornithologist Eric Dempsey to carry out a comprehensive overwintering bird survey (copy attached) which clearly indicates that the subject lands are not utilised by any of the qualifying species as an ex-situ site for roosting or foraging.

The PO seems to have totally ignored the evidence of the non-effect of wintering birds of the development and the stated fact that the cutting of grass for the pitch is a net ecological gain for over wintering birds in arriving at his conclusion.

3. In para 1 Page 9 of the Planning Report the PO additionally states that "The AA screening report fails to take account of potential impacts of operational noise on Natura 2000 sites.

In the Gannon AA report, Pages 13, 14, 16, 1nd 17 (TABLE 1. EUROPEAN SITES WITHIN 15KM OF THE PROPOSED DEVELOPMENT, OR WHERE A SOURCE-PATHWAY-RECEPTOR LINK EXISTS, AND ASSESSMENT OF SIGNIFICANCE), it states that ***"The proposed works are minor and short in duration, consisting the setting out of a sports pitch as indicated in Figure 5, envisaged to take place over a period of approximately 1-2 days. These works will not generate significant levels of dust or noise, and there is no potential for indirect effects on the qualifying interests of the SAC in relation to noise or dust"***.

The PO seems to have totally ignored the evidence of the non-impact of noise on the Natura 2000 sites and this is not a valid reason for refusing permission.

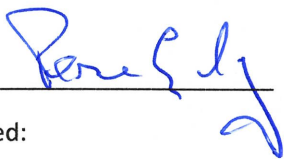
4. Finally, in para 1 Page 9 of the Planning Report the PO additionally states that "Pitch drainage measures do not appear to have been considered." He is correct in this, but only because no pitch drainage measures are being considered as they are not required and do not form part of the current development application. In fact, the AA report specifically stated that no earthworks or drainage will be required (Page 11 3.3). The assertion that "pitch drainage measures do not appear to have been considered" is not a valid reason for refusing permission.

5. The use of the ABP refusal of LBS52451 (ABP 302948-18) to create a linkage to the current application in justifying the refusal is the introduction of additional non-related and non-relevant issues – the application in question was for a different adjoining site for an entirely different use involving a large camper van park, was of a significantly larger scale and was on a site adjoining the SPA/SAC, thus increasing the introduction of non-relevant bias. Additionally, under this ABP refusal, the fact that the application was refused as it was adjudged to be located on a flood plain with sleeping accommodation and presented a danger to future occupants is noted. This again is totally irrelevant to the "laying out of a football pitch".

6. The Application is very specific in stating that the proposed development is the laying out of a football pitch and nothing further. The Inspector is assuming that there are other plans and projects associated with the site when in fact there are none. He is not entitled to make such an assumption without any knowledge or information on any such "other plans or projects" and by doing so is introducing bias in the adjudication

Having considered the three criteriae on which the PO has based his recommendation that "the proposed development would not be deemed exempt in this instance" as being unfounded, not based on readily available evidence to the contrary and not valid reasons for refusing permission.

The development as proposed being the laying out of lands as sportsgrounds fully complies with the limitations applied to such exemptions as defined in Class 33 Part 1 of the 2nd Schedule of the Planning and Development Regulations currently in force and the AA Screening report prepared by Gannon & Associates clearly defines that an NIS is not required and as such the Planning Authority was incorrect in not issuing a Section 5 Certificate and we request An bord Pleanala to consider and overturn the Planning Authority's decision and that the development be considered an exempted development under Section 5.


Signed:

23/9/24.
Date

Pearse Gilroy

Chairperson

Eastern Gaels GAC

Documents Attached:

1. Meath County Council Declaration 27/08/2024
2. Planning Appeal Form
3. Grounds for Appeal (this document)
4. Gannon & Associates AA Screening Report 07/2024
5. Gannon & Associates email 16/09/2024
6. Eric Dempsey Winter Bird Survey 11/20 to 03/21
7. Meath CoCo Planning Report 02/08/2024
8. Payment of €220 fee

MEATH COUNTY COUNCIL

Planning Department

Buvinda House

Dublin Road

Navan Co Meath

046 - 9097500

Planning & Development Act 2000- 2022

DECLARATION

**To: Eastern Gaels GAC
C/O Pearse Gilroy
49 Beach Park
Laytown
Co Meath
A92 X9W2**


PLANNING REFERENCE NUMBER: LBS52451

APPLICATION RECEIPT DATE: 31/07/2024

FURTHER INFORMATION DATE:

In pursuance of the powers conferred upon them by the Planning and Development Act 2000-2022, Meath County Council has by order dated 27.08.24 decided to Declare the proposed development is **NOT EXEMPT**, in accordance with the documents submitted namely: laying out of football pitch as Class 33(c) development to Column 1 of Part 1 to the Second Schedule of the Planning and Development Regulations at Tower Road, Mornington, Co. Meath is not exempted development.

Date: 27.08.24


On Behalf of Meath County Council

NOTE:

1. Any appeal against a Declaration of a Planning Authority under Section 5, sub-section 3(a) of the Planning and Development Act 2000-2022 may be made to An Bord Pleanala by the applicant **WITHIN FOUR WEEKS** beginning on the date of issue of the Declaration.
2. Appeals should be addressed to An Bord Pleanala, 64 Marlborough Street, Dublin 1. An appeal by the applicant should be accompanied by this form. The fee for an appeal against a Declaration of the Planning Authority is € 220.

For more information on Appeals you can contact An Bord Pleanala at:

Tel: 01 - 8588100 or LoCall: 1890 275 175

Fax: 01 - 8722684

E-mail: bord@pleanala.ie Web: www.pleanala.ie

gannon + associates

- info@gannonandassociates.ie
- Terenure Enterprise Centre, D6W
- gannonandassociates.ie

REPORT TO INFORM SCREENING FOR APPROPRIATE ASSESSMENT

for

PROPOSED SPORTS PITCH,
TOWER ROAD,
MORNINGTON
DROGHEDA, CO. MEATH

On behalf of

Eastern Gaels GAC

JULY 2024

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DOCUMENT CONTROL

Revision No.	Date	Detail	Author
F	24/07/2024	Final	DW

1 INTRODUCTION

1.1 Overview

Gannon + Associates were commissioned by Eastern Gales GAC, the applicant, to produce an Appropriate Assessment Screening Report in regards to a proposed sports pitch on lands at Tower Road, Mornington, Co. Meath.

The proposed development site is situated on the northern side of Tower Road, east of Mornington, and comprises part of a former agricultural field. The site is bound to the south by Tower Road and further agricultural land, to the north by a former driving range, to the east by agricultural land and to the west by agricultural land, an access road and the Boyne Estuary.



FIGURE 1. EXISTING SITE FROM TOWER ROAD.

This report contains information for the competent authority, in this case Meath County Council, to undertake a screening exercise for appropriate assessment in relation to the proposed development. The purpose of this report is to assess the potential for significant effects on relevant Natura 2000 sites (hereafter referred to as "European sites") from the proposed development in the context of the qualifying features and conservation objectives of such sites.

1.2 Legislative Context

The Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (hereafter referred to as "The Habitats Directive") provides a legal protection to both habitats and species of European Community interest. Articles 3 to 9 of the Directive give the legislative means to provide this protection via the designation and conservation of an EU-wide network of sites. This network of sites is composed of Special Areas of Conservation (SACs), designated under the Habitats Directive, and Special Protection Areas (SPAs), designated under the Conservation of Wild Birds Directive 79/409/ECC (hereafter referred to as "The Birds Directive"), which together form the Natura 2000 network of protected sites.

Articles 6(3) and 6(4) of the Habitats Directive layout the decision-making process for any projects or plans likely to affect European sites. Article 6(3) states:

“Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site, in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.”

1.3 Management of European Sites

The proposed project comprises the laying of a sports pitch and is not connected to, or necessary for, the management of any European site.

2 METHODOLOGY

2.1 Legislation and Guidance

The following guidance documents were consulted and followed in the completion of this report:

- Assessment of plans and projects in relation to Natura 2000 sites – Methodological guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission, 2021).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2010);
- Appropriate Assessment under Article 6 of the Habitats Directive: Guidance for Planning Authorities. Circular NPW 1/10 & PSSP 2/10;
- Assessment of Plans and Projects Significantly Affecting Natura 2000 sites: Methodological Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission, 2001); and
- Managing Natura 2000 Sites: The Provisions of Article 6 of the Habitat's Directive 92/43/EEC (European Commission, 2018).

2.2 Stage 1 Screening Methodology

The Appropriate Assessment Screening methodology utilised in this report follows the above guidance. This includes adherence to the following steps:

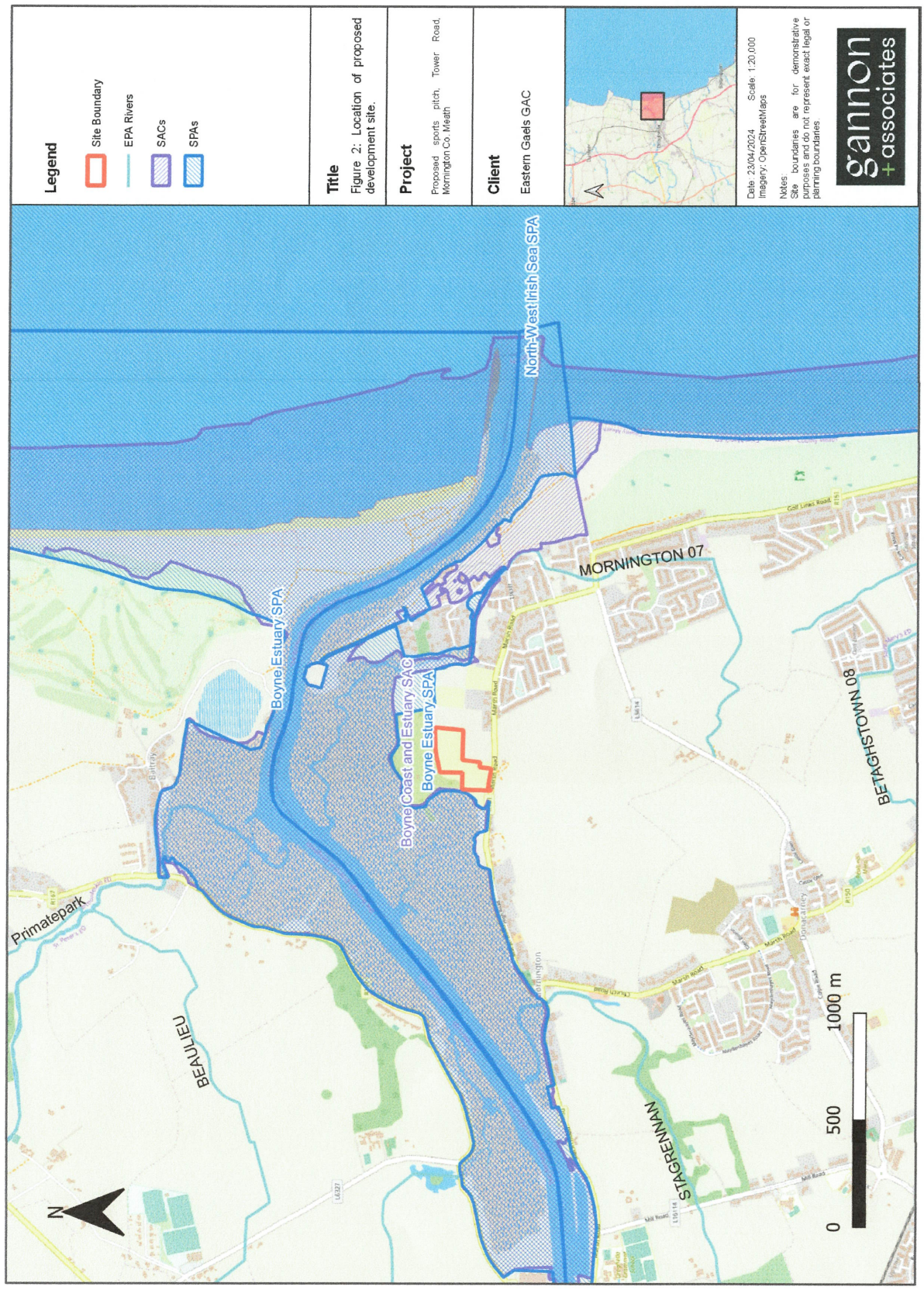
- Establish whether the plan is directly connected with or necessary for the management of a European site;
- Description of the plan or project and the description and characterisation of other projects or plans that in combination have the potential for having significant effects on the European site;
- Identification of European sites potentially affected;
- Identification and description of potential effects on the European site;
- Assessment of the likely significance of the impacts identified on the European site; and
- Exclusion of sites where it can be objectively concluded that there will be no significant effects.

2.3 Desktop Study

A review of available relevant information was conducted in order to reach the conclusions outlined in this report. This review, completed in April 2024, relied on the following information sources:

- Information on European sites and their qualifying features and conservation objectives, available from the National Parks and Wildlife Service (NPWS) at www.npws.ie;
- Information on waterbodies, water quality data and catchment areas available from the Environmental Protection Agency (EPA) at www.epa.ie;
- Information on geology, soils and hydrogeology available from the Geological Society of Ireland (GSI) available at www.gsi.ie;
- Satellite imagery and mapping available from multiple sources including: Ordnance Survey Ireland (OSI), Google, Bing and Digital Globe;
- Information on the status of EU protected species and habitats in Ireland (NPWS 2019a & 2019b);
- Information on any relevant consented, in-progress or existing developments available from the respective County Council online resources;

- Information on the location, design and extent of the proposed development provided by the applicant and/or their agents;





3 CHARACTERISTICS OF THE PROJECT

3.1 Site Location

The proposed development site is situated on the northern side of Tower Road, east of Mornington, and comprises part of a former agricultural field. The site is bound to the south by Tower Road and further agricultural land, to the north by a former driving range, to the east by agricultural land and to the west by agricultural land, an access road and the Boyne Estuary.

The proposed development site is wholly located outside of any European sites. The closest European sites to the proposed development are the Boyne Coast and Estuary SAC and Boyne Estuary SPA and situated approximately 100m west of the proposed pitch at their closest point. The North-west Irish Sea SPA is situated approximately 1.5km to the east and the River Boyne and River Blackwater SAC is situated approximately 2.5km to the west.

3.2 Baseline Environment

The proposed development site comprises part of an agricultural field that has been used for silage production. The area identified as the pitch within the site has recently been ploughed and re-seeded. The remainder of the lands continue to be used for silage production.

The site is accessed via an existing entrance off Tower Road and access road which leads to the former driving range directly north of the site. Between this access road and the estuary is a soil berm vegetated with gorse. There are hedgerows bounding the wider ownership lands.

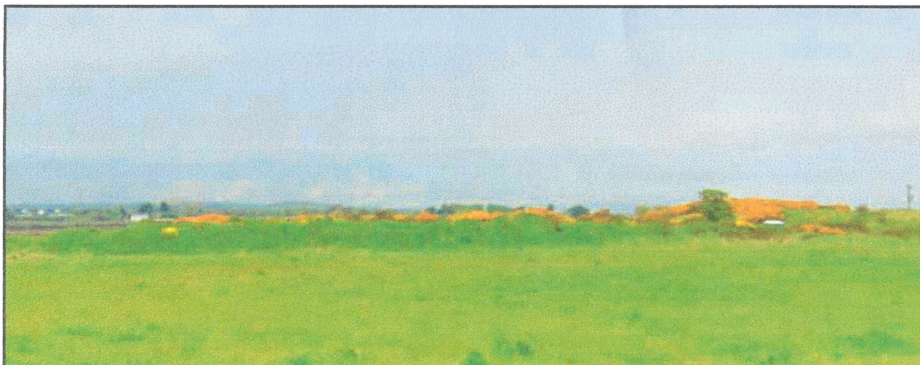


FIGURE 4. EXISTING BERM SEPARATING SITE AND BOYNE ESTUARY TO WEST.

There are no watercourses within the proposed development site. The closest watercourse is the Mornington Stream (EPA code: 07M55) situated approximately 300m to the east as it enters the Boyne Estuary. The Boyne Estuary itself is situated approximately 100m to the west of the proposed pitch at its closest point, separated by a berm as outlined above.

Winter bird surveys of the estuary directly west of the proposed development site were undertaken by INIS Environmental Consultants Ltd. in 2018 to inform the proposed Boyne Greenway (Drogheda to Mornington) planning application. Results indicate that the area of estuary closest to the proposed development site is

not a utilised by significant numbers^a of waterbirds (INIS Environmental Consultants Ltd, 2020). In addition, no significant roosting sites were identified along the edge of the estuary at this location (INIS Environmental Consultants Ltd, 2020). This supports previous survey data collected to inform the Boyne Estuary SPA (from the 2011/12 Waterbird Survey Programme) which similarly shows no roosting locations of SCI species of the SPA along the edge of the estuary closest to the proposed development site (NPWS, 2012c).

The habitats within the proposed development site (comprising terrestrial grassland) do not conform to habitats listed in Annex II of the Habitats Directive. The potential for the habitats within and adjacent to the proposed development site to support qualifying interest (QI) or special conservation interest (SCI) species from any European sites on an *ex-situ* basis is discussed below. The qualifying faunal species of nearby European sites cumulatively comprise otter, lamprey, salmon, kingfisher and a number of overwintering waterbird species.

There are no watercourses within the site and therefore no suitable habitat for otter, kingfisher, lamprey or salmon. As such, there is no potential for *ex-situ* effects arising from the proposed development.

Some of the SCI overwintering waterbird species of nearby SPAs (namely golden plover and lapwing, and to a lesser extent oystercatcher, black-tailed godwit, grey plover and redshank) can utilise terrestrial habitats to varying degrees for foraging at times during the winter (NPWS, 2012c). These species rely on short sward heights for terrestrial foraging grounds (Gillings & Fuller, 1999), and are known to utilise grazed agricultural grassland/pasture, managed amenity grassland and arable/stubble farmland (NPWS, 2012c).

The proposed development site comprises part of an agricultural field that has been used for silage production. This habitat type is typically not favoured for foraging for the above SCI species, unless the sward height is kept low for the winter period (NPWS, 2012c). However, the short-sward amenity grassland habitat typical of sport pitches are suitable foraging grounds for such species^b. The regular mowing for the maintenance of the proposed sports pitch as part of the proposed development will create suitable additional *ex-situ* foraging ground for SCI species of the Boyne Estuary SPA.

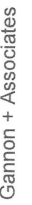
^a Maximum flock sizes of SCI species of the Boyne Estuary SPA recorded in the estuary within 200m of the proposed development site comprised 12no. redshank, 11no. turnstone, 8no. black-tailed godwit and 2no shelduck. These numbers are insignificant in relation to the respective populations of the SPA (i.e. <2%).

^b There is well documented extensive usage of sport pitches in Ireland by overwintering waterbirds, e.g. light-bellied brent geese, oystercatcher, black-tailed godwit, redshank, etc. in greater Dublin area (Enviroguide, 2022) and examples of waterbirds utilising similar habitats within Drogheda including oystercatcher at Newtown Blues sports pitches (Gannon + Associates, 2023).

The proposed development comprises the following:

- Laying-out of one sports pitch for which ploughing and seeding has already been carried out and no earthworks or drainage will be required;
- Setting out a pitch as indicated in Figure 5; and
- The usage of the access road for access to and from the site.





4 EUROPEAN SITES

4.1 Source-Pathway-Receptor and Assessment of Significance

In order to identify any connectivity between the proposed development and European sites, and to identify any potential effects on European sites as a result of the proposed development, a source-pathway-receptor approach has been applied.

In order for there to be a potential effect on a European site from the proposed development, there must be connectivity via an identified source (e.g., noise emissions or surface water run-off), a receptor (e.g., a qualifying interest or special conservation interest of a European site) and a pathway between the source and the receptor (e.g., a watercourse). As a starting point, and adopting the precautionary principle, all European sites within a 15km distance of the proposed development have been included for source-pathway-receptor assessment. Following this, if necessary, further European sites outside of this 15km area are assessed where connectivity may exist.

Where source-pathway-receptor connectivity is identified between the proposed development and a European site, the potential effect is then further assessed for its significance.

TABLE 1. EUROPEAN SITES WITHIN 15KM OF THE PROPOSED DEVELOPMENT, OR WHERE A SOURCE-PATHWAY-RECEPTOR LINK EXISTS, AND ASSESSMENT OF SIGNIFICANCE.

Site Name and Code	Dist. to Site	Qualifying Features ^c	Source-Pathway-Receptor Assessment	
			Special Areas of Conservation (SAC)	Potential for Significant Effects
Boyne Coast and Estuary SAC [001957]	6m	[1130] Estuaries [1140] Tidal Mudflats and Sand-flats [1210] Annual vegetation of drift lines [1310] <i>Salicornia</i> Mud [1330] Atlantic Salt Meadows [2110] Embryonic Shifting Dunes [2120] Marram Dunes (White Dunes) [2130] Fixed Dunes (Grey Dunes)*	<p>The proposed development site is located entirely outside of the SAC. All works will take place entirely outside of the SAC boundary and within the curtilage of the existing field. There is therefore no potential for direct habitat loss within the SAC.</p> <p>The proposed works are minor and short in duration, consisting the setting out of a sports pitch as indicated in Figure 5, envisaged to take place over a period of approximately 1-2 days. These works will not generate significant levels of dust or noise, and there is no potential for indirect effects on the qualifying interests of the SAC in relation to noise or dust.</p>	There is no potential pathway for effects and therefore no potential for significant effects on the SAC as a result of the proposed development.

^c * = priority; numbers in brackets are Natura 2000 codes.

			<p>There are no watercourses within the proposed development site. In addition, the nature of the proposed works will not generate significant potential pollutants, i.e., no earthworks and potential for only minor use of cementitious material for installation of two goal posts separated by a minimum 100m from the nearest point of the estuary. There is no functional hydrological connectivity between the proposed development works and the SAC.</p> <p>There is no source-pathway-receptor connectivity between the proposed development and the SAC.</p>	
River Boyne and River Blackwater SAC [002299]	2.5km	<p>[7230] Alkaline Fens [91E0] Alluvial Forests* [1099] River Lamprey (<i>Lampetra fluviatilis</i>) [1106] Atlantic Salmon (<i>Salmo salar</i>) [1355] Otter (<i>Lutra lutra</i>)</p>	<p>The proposed development site is located entirely outside of the SAC and over 2km distant. There is therefore no potential for direct effects on the SAC.</p> <p>The proposed works are minor and short in duration, consisting the setting out of a sports pitch as indicated in Figure 5, envisaged to take place over a period of approximately 1-2 days. These works will not generate significant levels of dust or noise, and there is no potential for indirect effects on the qualifying interests of the SAC in relation to noise or dust.</p> <p>There are no watercourses within the proposed development site. In addition, the nature of the proposed works will not generate significant potential pollutants, i.e., no earthworks and potential for only minor use of cementitious material for installation of two goal posts separated by a minimum 100m from the nearest point of the estuary. There is no functional hydrological connectivity between the proposed development works and the SAC.</p> <p>There is no source-pathway-receptor connectivity between the proposed development and the SAC.</p>	<p>There is no potential pathway for effects and therefore no potential for significant effects on the SAC as a result of the proposed development.</p>
Clogher Head SAC [001459]	7.3km	<p>[1230] Vegetated Sea Cliffs [4030] Dry Heath</p>	<p>The proposed development site is located entirely outside of the SAC and over 7km distant. There is therefore no potential for direct effects on the SAC.</p> <p>The proposed works are minor and short in duration, consisting the setting out of a sports pitch as indicated in Figure 5, envisaged to take place over a period of approximately 1-2 days. These works will not generate significant levels of dust or noise, and there is no potential for indirect effects on the qualifying interests of the SAC in relation to noise or dust.</p> <p>There are no watercourses within the proposed development site. In addition, the nature of the proposed works will not</p>	<p>There is no potential pathway for effects and therefore no potential for significant effects on the SAC as a result of the proposed development.</p>

			<p>generate significant potential pollutants, i.e., no earthworks and potential for only minor use of cementitious material for installation of two goal posts separated by a minimum 100m from the nearest point of the estuary. There is no functional hydrological connectivity between the proposed development works and the SAC.</p> <p>There is no source-pathway-receptor connectivity between the proposed development and the SAC.</p>	
Special Protection Areas (SPA)				
Boyne Estuary SPA [004080]	10m	<p>Shelduck (<i>Tadorna tadorna</i>) [A048] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Little Tern (<i>Sterna albibronis</i>) [A195] Wetland and Waterbirds [A999]</p>	<p>The proposed development site is situated approximately 10m from the SPA at its closest point. As such, potential connectivity for disturbance effects to SCI species within the SPA is assessed for significance.</p> <p>There are no watercourses within the proposed development site. In addition, the nature of the proposed works will not generate significant potential pollutants, i.e., no earthworks and potential for only minor use of cementitious material for installation of two goal posts separated by a minimum 100m from the nearest point of the estuary. There is no functional hydrological connectivity between the proposed development works and the SPA.</p> <p>The SPA is designated for 10 overwintering waterbird species and for breeding little tern. These species predominantly utilise coastal habitats (e.g., tidal flats, saltmarsh and shingle beach). Some of these species utilise terrestrial habitats for foraging at times during the winter (NPWS, 2012c) – see Section 3.2 for further details. This potential <i>ex-situ</i> connectivity is therefore assessed for its significance.</p>	<p>Disturbance effects</p> <p>The proposed works are minor and short in duration, comprising the erection of two goal posts, envisaged to take place over a period of approximately 1-2 days. These works will not generate significant levels of dust or noise and there is no potential for indirect effects on the SCI species of the SPA in relation to noise or dust during construction phase.</p> <p>The proposed sports pitch is 100m distant from the SPA at its closest point and is separated by an existing vegetated soil berm and area of scrub which provide comprehensive visual screening between the proposed pitch and the estuary. The proposed site entrance and parking area are similarly separated from the estuary by an existing vegetated soil berm.</p> <p>The R151 is a busy connecting road between Drogheda and Mornington/Bettystown and passes directly adjacent to the SPA with no visual barrier along most of its length, including directly west of the proposed development site. The provision of minor parking within the proposed development site to serve the sports pitch is insignificant in relation to the existing baseline conditions of vehicle movements directly adjacent to the estuary along a busy regional road in a suburban environment and vehicle movements along the existing access track to the driving range north of the site. There is no potential for significant effects on the SPA as a result of the proposed development.</p> <p>Ex-situ foraging</p> <p>The proposed development site under current management does not provide optimal foraging habitat</p>

				<p>for SCI species of the SPA, with sward heights likely being too high over the winter period. The regular mowing for the maintenance of the proposed sports pitch as part of the proposed development will create suitable additional <i>ex-situ</i> foraging ground for SCI species of the SPA. This is assessed as a positive effect. There is no potential for significant negative effects on the SPA as a result of the creation of additional suitable <i>ex-situ</i> foraging habitat as a result of the proposed development.</p>
North-west Irish Sea SPA [004236]	1.5km	<p>Red-throated Diver (<i>Gavia stellata</i>) [A001] Great Northern Diver (<i>Gavia immer</i>) [A003] Fulmar (<i>Fulmarus glacialis</i>) [A009] Manx Shearwater (<i>Puffinus puffinus</i>) [A013] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Common Scoter (<i>Melanitta nigra</i>) [A065] Little Gull (<i>Larus minutus</i>) [A177] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Herring Gull (<i>Larus argentatus</i>) [A184] Great Black-backed Gull (<i>Larus marinus</i>) [A187] Kittiwake (<i>Rissa tridactyla</i>) [A188] Roseate Tern (<i>Sterna dougalli</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Little Tern (<i>Sterna albigrons</i>) [A195] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Puffin (<i>Fratercula arctica</i>) [A204]</p>	<p>The proposed development site is located entirely outside of the SPA and over 1km distant. There is therefore no potential for direct effects on the SPA.</p> <p>The proposed works are minor and short in duration, consisting the setting out of a sports pitch as indicated in Figure 5, envisaged to take place over a period of approximately 1-2 days. These works will not generate significant levels of dust or noise, and there is no potential for indirect effects on the SPA in relation to noise or dust.</p> <p>There are no watercourses within the proposed development site. In addition, the nature of the proposed works will not generate significant potential pollutants, i.e., no earthworks and potential for only minor use of cementitious material for installation of two goal posts separated by a minimum 100m from the nearest point of the estuary. There is no functional hydrological connectivity between the proposed development works and the SPA.</p> <p>The SPA is designated for breeding seabirds. The proposed development site, comprising terrestrial grassland, does not offer suitable habitat for these species. As such, there is no connectivity between the proposed development and any SCI species of the SPA.</p> <p>There is no source-pathway-receptor connectivity between the proposed development and the SPA.</p>	<p>There is no potential pathway for effects and therefore no potential for significant effects on the SPA as a result of the proposed development.</p>

River Nanny Estuary and Shore SPA [004158]	4.3km	<p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Herring Gull (<i>Larus argentatus</i>) [A184] Wetland and Waterbirds [A999]</p>	<p>The proposed development site is located entirely outside of the SPA and over 4km distant. There is therefore no potential for direct effects on the SPA.</p> <p>The proposed works are minor and short in duration consisting the setting out of a sports pitch as indicated in Figure 5, envisaged to take place over a period of approximately 1-2 days. These works will not generate significant levels of dust or noise, and there is no potential for indirect effects on the SPA in relation to noise or dust.</p> <p>There are no watercourses within the proposed development site. In addition, the nature of the proposed works will not generate significant potential pollutants, i.e., no earthworks and potential for only minor use of cementitious material for installation of two goal posts separated by a minimum 100m from the nearest point of the estuary. There is no functional hydrological connectivity between the proposed development works and the SPA.</p> <p>The SPA is designated for 10 overwintering waterbird species and for breeding little tern. These species predominantly utilise coastal habitats (e.g., tidal flats, saltmarsh and shingle beach). Some of these species utilise terrestrial habitats for foraging at times during the winter (NPWS, 2012c) – see Section 3.2 for further details. This potential <i>ex-situ</i> connectivity is therefore assessed for its significance.</p>	<p>Ex-situ foraging The proposed development site under current management does not provide optimal foraging habitat for SCI species of the SPA, with sward heights likely being too high over the winter period. The regular mowing for the maintenance of the proposed sports pitch as part of the proposed development will create suitable additional <i>ex-situ</i> foraging ground for SCI species of the SPA. This is assessed as a positive effect. There is no potential for significant negative effects on the SPA as a result of the creation of additional suitable <i>ex-situ</i> foraging habitat as a result of the proposed development.</p>
River Boyne and Blackwater SPA [004232]	8.4km	<p>Kingfisher (<i>Alcedo atthis</i>) [A229]</p>	<p>The proposed development site is located entirely outside of the SPA and over 8km distant. There is therefore no potential for direct effects on the SPA.</p> <p>The proposed works are minor and short in duration, consisting the setting out of a sports pitch as indicated in Figure 5, envisaged to take place over a period of approximately 1-2 days. These works will not generate significant levels of dust or noise, and there is no potential for indirect effects on the SPA in relation to noise or dust.</p> <p>There are no watercourses within the proposed development site. In addition, the nature of the proposed works will not generate significant potential pollutants, i.e., no earthworks and potential for only minor use of cementitious material for installation of two goal posts separated by a minimum 100m from the nearest point of the estuary. There is no functional hydrological connectivity between the proposed development works and the SPA.</p>	<p>There is no potential pathway for effects and therefore no potential for significant effects on the SPA as a result of the proposed development.</p>

			<p>The SPA is designated for breeding kingfisher. This species nests in burrows on clear tall vertical banks of slow-flowing streams and rivers (Cummins <i>et al.</i>, 2010). The proposed development comprises terrestrial grassland with no water-courses. There is no potential for ex-situ effects on SCI species of the SPA as a result of the proposed development.</p> <p>There is no source-pathway-receptor connectivity between the proposed development and the SPA.</p>	
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5 PLANS AND PROJECTS WHICH COULD ACT IN-COMBINATION

The potential connectivity between the proposed development and European sites in relation to the suitability of habitats within the site for foraging overwintering waterbirds and disturbance effects were assessed for their significance and determined that there is no potential for significant effects on any European site as a result of the proposed development.

The proposed development is minor, consisting the setting out of a sports pitch as indicated in Figure 5. It is considered that there is no potential for the proposed development to act in-combination with any other projects in the vicinity such that could cause likely significant effects to any European sites.

6 CONCLUDING STATEMENT

In conclusion, upon the examination, analysis and evaluation of the relevant information including, in particular, the nature of the proposed development and the likelihood of significant effects on any European site, in addition to considering possible in-combination effects, and applying the precautionary principles, it is concluded by the authors of this report that, on the basis of objective information, the possibility may be excluded that the proposed development will have a significant effect on any European sites.

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[REDACTED]

From: Jonathan Gannon [REDACTED]
Sent: Monday 16 September 2024 10:49
To: [REDACTED]
Subject: Re: FW: PL-DM-LBS52451

Hi Pearce,

This is a great disappointment, and something we assumed was fait accompli appears to have met resistance in MCC.

Just to note we did assess wintering birds and used valid information from proximate recent surveys to make an assessment that the site "is not utilised by significant numbers of waterbirds". In fact we state that the current land use is "not favoured for foraging" and the "short-sward amenity grassland typical of sports pitches are suitable for such species". So in fact there is a net ecological benefit in maintaining this site as a sports pitch and not in its current land use.

It says we didn't take into account drainage of the pitch but none is proposed, in fact we specifically assessed this "no earthworks or drainage will be required".

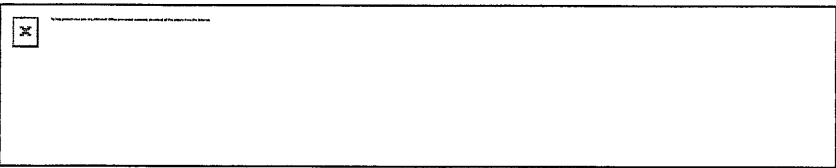
I'm dismayed. The effective change of use is cutting grass which we have highlighted is actually a net benefit ecological for over wintering birds.

Noise impact is also not a valid reason for refusal.

I'm happy to talk through options. If there is a route of appeal we can provide a letter to the above effect.

Regards,

--
Jonathan Gannon,
Principal Landscape Architect
B. Ag.Sci, L.L.M, M.I.L.I



On Thu, 12 Sept 2024 at 13:14, [REDACTED] wrote:

Hi Jonathan

Mornington Development Site, Co. Meath

Winter Bird Survey - November 2020 – March 2021

Site

The proposed development site is located along the coast road between Mornington and Drogheda, Co. Meath. The proposed development site is bordered to the east and north by the Boyne Estuary SPA (004080) and the Boyne Coast and Estuary SAC (001957), and by agricultural land to the south and west. This site currently contains an old 'club house' and the remains of a golf driving range, and open flat agricultural ground bordered by hedgerows and a large mounds of earth (berms) along the Boyne Estuary side of the site.

Proposed Development

The proposed development will consist of a motorhome camping area, and the retention of a golf driving range with associated buildings.



Fig 1 – Site Layout and Habitat Map

Background

Birds Ireland (BINS Ltd) was commissioned by VCL Consultants to undertake a detailed Winter Bird Survey as part of the Biodiversity Assessment of the proposed development site at Mornington, Co. Meath.

This Biodiversity Assessment assesses the potential effects of the proposed development at Mornington, Co. Meath on habitats and species; particularly those protected by national and international legislation or considered to be of particular nature conservation importance. The report describes the ecology of the proposed development area, with emphasis on habitats, flora and fauna, and assesses the potential effects of the development on these ecological receptors.

Site Description

The area is bordered to the east and north by the Boyne Estuary SPA (004080) and the Boyne Coast and Estuary SAC (001957), the area attracting significant numbers of shorebirds and wildfowl in winter. The area is largely grassland with a berm on the estuary side, with scrubland along the northern edge of the driving range, and a mixed hedgerow running west/east between the driving range area and the proposed site for the motorhome site. Agricultural land to the west is bordered by hedgerows and mature trees. The area along the southern edge faces onto the coast road and further agricultural land.

Winter Bird Surveys

Eric Dempsey, undertook winter bird surveys of the site on from November 2020 to March 2021. Two surveys were undertaken during the period of high/low tides during each month. In total five low tide counts and five high tide counts were completed (ten in total).

Eric Dempsey, is an Environmental Consultant and Ornithologist who has worked on a wide range of conservation, research and ecological monitoring projects across Ireland. Eric has over 40 years field experience, is a highly sought-after public speaker and is the author of many best-selling books including '*The Complete Field Guide to Ireland's Birds*' and '*Finding Birds in Ireland*'. He is experienced in coordinating and undertaking surveys along with being highly proficient in report writing and data management. Eric is very experienced with all survey methodology and has inputted to many Environmental Impact Assessment Reports, Environmental Assessments and Appropriate Assessments for numerous projects.

Low Tide Counts



Fig 2. Area of exposed mudflats surveyed during low tide counts

Low Tide counts were undertaken on the following dates:

Date	Low Tide
25/11/20	14:23pm
29/12/20	16:40pm
22/01/21	12:29pm
19/02/21	10:31am
26/03/21	16:05pm

Methodology

During Low Tide counts, all species feeding within the boundary of the survey area (see Fig. 2.) were counted within sub-sections of the mudflats. All counts were then collated into species counts for each survey day allowing for movements of birds to avoid over-estimations. All observations were undertaken from the proposed development site.

Low Tide Count Results

SPECIES	25/11/20	29/12/21	22/01/21	19/02/21	26/03/21
Brent Goose	0	0	0	7*	0
Shelduck	85*	62	51	46	5
Mallard	0	2*	0	0	0
Wigeon	98	14	6	101*	0
Teal	0	86*	13	45	11
Oystercatcher	16	1	42*	41	0
Lapwing	187	158	190*	25	0
Grey Plover	6	2	51	56*	7
Golden Plover	1	1	1	0	0
Ringed Plover	32*	7	21	12	0
Curlew	31	21	18	36*	11
Black-tailed Godwit	21*	0	0	0	7
Snipe	2*	1	1	0	0
Redshank	117	54	56	163*	103
Greenshank	4*	0	1	0	0
Knot	7	0	218	287*	0
Dunlin	88	97	255	836*	1
Sanderling	9*	0	0	0	0
Grey Heron	1	0	1	0	1
Little Egret	1	0	0	1	0
Great Black-backed Gull	0	12	0	13*	0
Herring Gull	67*	31	22	5	10
Common Gull	4*	3	0	0	0
Black-headed Gull	11	23*	3	17	0

*= peak count recorded

Counts marked in blue are of national importance

Three species, Grey Plover, Knot and Dunlin were recorded feeding on the mudflats in numbers considered to be of 'National Importance' (the respective counts being marked in blue in the table above).

It should be noted that during the low tide counts, a full walkover of the site was undertaken and no species were recorded using the site for ex-situ feeding.

High Tide Roost Counts



Fig. 3 Main areas of roosting sites during High Tide counts

High Tide counts were undertaken on the following dates:

Date	High Tide
14/11/20	10:21am
21/12/20	16.20pm
27/01/21	10:39am
18/02/21	15:43pm
27/03/21	10:23am

Methodology

During High Tide counts, all species roosting at the key roosting area of the survey area (see Fig. 3.) were counted. All counts were then collated into species counts for each survey day allowing for movements of birds to avoid over-estimations. All observations were undertaken from the proposed development site.

High Tide Roost Count Results

SPECIES	14/11/20	21/12/21	27/01/21	18/02/21	27/03/21
Brent Goose	3	0	0	0	10*
Shelduck	8	2	11	50*	5
Mallard	15	16*	5	2	0
Wigeon	7	36*	30	25	14
Shoveler	0	1	0	0	0
Teal	9	39	46*	27	23
Lapwing	153*	78	0	0	0
Grey Plover	0	0	0	1	0
Turnstone	0	3	0	0	0
Curlew	7*	1	1	0	1
Black-tailed Godwit	56	0	0	0	0
Snipe	0	7*	2	0	0
Redshank	75*	27	43	1	0
Greenshank	0	0	1	0	1
Knot	0	0	10	0	0
Grey Heron	1	1	0	0	0
Herring Gull	2	0	1	0	7*
Black-headed Gull	19*	0	0	4	4

*= peak count recorded

No species were recorded at the roosting sites in numbers recognised as being of National Importance. It should be noted the main roosting site for species in the area was along the main channel in the middle of the mudflats and outside the survey boundaries.

It should be noted that during the high tide surveys, a full walkover was undertaken and no species were recorded using the site as a roosting location.

Red-listed Bird Species

There were 11 species recorded during the Winter 2020/21 surveys which are on the Red List of the Birds of Conservation Concern in Ireland as follows:

- Shoveler
- Oystercatcher
- Grey Plover
- Golden Plover
- Lapwing
- Curlew
- Black-tailed Godwit
- Knot
- Dunlin
- Snipe
- Redshank

However, it is the considered opinion of Eric Dempsey, that the retention of the high berms along the boundaries on the western and northern sections of the proposed development site will result in no disturbance to these species either feeding on the mudflats or roosting on the boundaries to the site.

Amber-listed Bird Species

There were 11 species recorded during the Winter 2020/21 surveys which are on the Amber List of the Birds of Conservation Concern in Ireland as follows:

- Brent Goose
- Shelduck
- Wigeon
- Mallard
- Teal
- Turnstone
- Ringed Plover
- Black-headed Gull
- Common Gull
- Herring Gull

However, it is the considered opinion of Eric Dempsey, that the retention of the high berms along the boundaries on the western and northern sections of the proposed development site will result in no disturbance to these species either feeding on the mudflats or roosting on the boundaries to the site.

Conclusion

It can be concluded that the proposed development on this site will not cause any significant negative impacts on feeding or roosting bird species recorded during the Winter 2020/21 surveys.

Meath County Council



Planning Report

To:	Wendy Bagnall, Senior Executive Planner
From:	Nathan Cooney, Executive Planner
Date:	02/08/2024
MCC File Number:	LBS52451
Applicants:	Eastern Gaels GAC
Development Address:	Tower Road, Mornington, Co. Meath A92 F2NF
Application Type:	Section 5 of the Planning & Development Acts 2000-2022 Declaration on Development/Exempted Development.
Development Description:	Laying out of football pitch.
Date Decision Due:	29/08/2024

1.0 Site Location & Description

The subject site relates to a parcel of lands along Tower Road, Mornington, Co. Meath. The application site is accessed from the adjoining R151 Road. There are no protected structures, national monuments on the site. The subject site is located approximately 100m from Boyne Estuary SPA (Site Code: 004080) and Boyne Coast and Estuary SAC (Site Code: 001957).

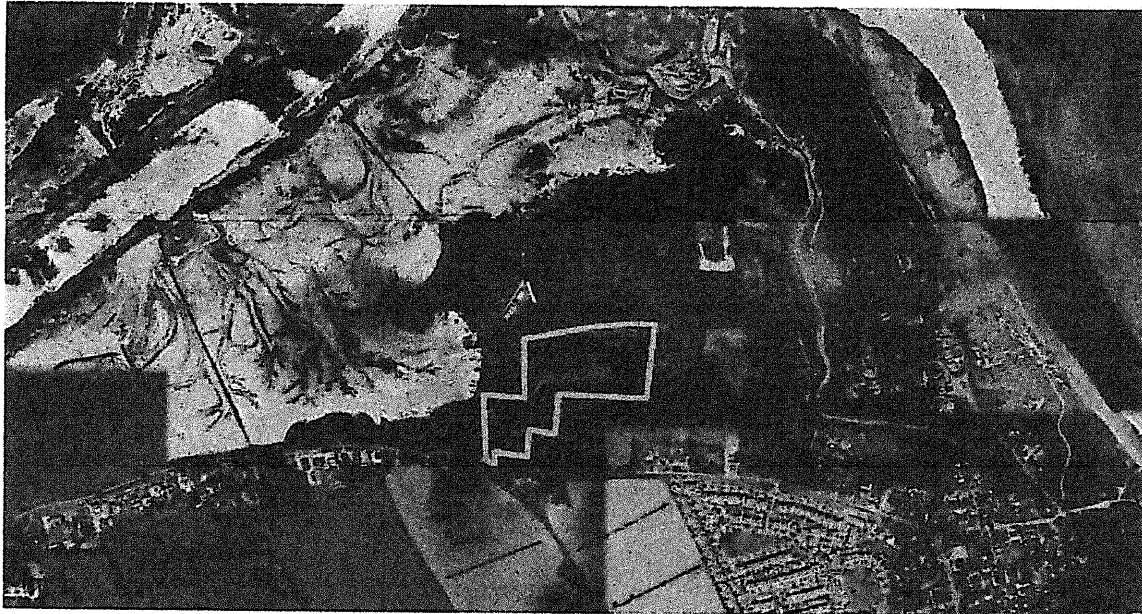


Fig. 1.0: Aerial image of the subject lands to which the application relates (outlined in red).

2.0 Proposed Declaration

The applicants describe the development in the completed application form as 'Laying out of football pitch'. The Planning Authority is considering this question as:

Whether the laying out of a football pitch is or is not development and is or is not exempted development.

The completed application form and submitted documents indicate that the extent of works proposed.

3.0 Planning History

LBS52341 Whether or not laying out of football pitches is exempt. – **Decision: NOT Exempted Development.**

Conclusion

"Laying Out of Football Pitches" at Towner Road, Mornington, Co. Meath is not exempted development from the requirement to obtain planning permission, as on the basis of the information provided the Planning Authority 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. Therefore, the proposed works would not exempt as per Article 9(1)(a)(viiB) of the Planning and Development Regulations, 2001 (as amended) and Section 4(4) of the Planning and Development Acts, 2000-2022.

LB/180961 Permission GRANTED for change of use from golf driving range permitted under planning reference 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 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.

Subsequently, a third party appeal was lodged under ABP-302948-18 and a decision to refuse permission was made by An Bord Pleanála.

Refusal Reasons:

- Not Connected*
1. On the basis of the information provided with the planning application and appeal, and in the Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the integrity of the Boyne Estuary Special Protection Area (Site Code: 004080) and the Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957), or any other European site, in view of the sites' conservation objectives. In such circumstances, the Board is precluded from granting permission.
 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 not 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, would conflict with the Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.

4.0 Internal, External and Prescribed Bodies

None.

5.0 Relevant National Legislation

In order to assess whether or not the works described in Section 2.0 of this report is or is not development or is or is not exempted development regard must be had to the following national legislation set out below.

5.1 Section 2 of the Planning & Development Acts 2000-2022

Section 2 of the Planning & Development Acts 2000-2022 provides the following interpretations which are relevant:

"development" has the meaning assigned to it by section 3, and "develop" shall be construed accordingly;

"exempted development" has the meaning specified in section 4;

"structure" means *inter alia* any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and where the context so admits, includes the land on, in or under which the structure is situate; and

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

5.2 Section 3 of the Planning & Development Acts 2000-2022

Section 3(1) of the Planning & Development Acts 2000-2022 defines "development" as follows:

"Development means except where the context otherwise requires, the carrying out of any works on, in over or under land or the making of any material change in the use of any structures or other land."

5.3 Section 4 of the Planning & Development Acts 2000-2022

Section 4(1) of the Planning & Development Acts 2000-2022 provides a list of statutory exempted development including:

Section 4(1)(1C)

'Development referred to in paragraph (a), (d), (e) or (g) of subsection (1A) shall not be exempted development if an appropriate assessment of the development is required.]'

Section 4(2) of the Planning and Development Acts 2000-2022 provides for the making of regulations relating to exempted development. The Planning & Development Regulations 2001-2023 give effect to section 4(2).

Section 4 (2) (a) (i)

'The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or..'

Section 4(2)(b)

'Regulations under paragraph (a) may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.'

Section 4(2) (c)

'Regulations under this subsection may, in particular and without prejudice to the generality of paragraph(a),provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.'

Section 4 (4)

X *'Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.'*

5.4 Section 177U of the Planning & Development Acts 2000-2022

Section 177U(9)

X *'In deciding upon F907[a declaration or a referral under section 5] of this Act a planning authority or the Board, as the case maybe shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.'*

5.5 Section 5 of the Planning & Development Acts 2000-2022

Section 5 of the Planning & Development Acts 2000-2022 provides *inter alia*:

- (1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.
- (2) (a) Subject to *paragraph (b)*, a planning authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its decision is based to the person who made the request under *subsection (1)*, and, where appropriate, the owner and occupier of the land in question, within 4 weeks of the receipt of the request.

(b) A planning authority may require any person who made a request under *subsection (1)* to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information.

(c) A planning authority may also request persons in addition to those referred to in *paragraph (b)* to submit information in order to enable the authority to issue the declaration on the question.

5.6 Section 32 of the Planning & Development Acts 2000-2022

Section 32 of the Planning & Development Acts 2000-2022 sets out a general obligation to obtain planning permission in respect of any development of land, not being exempted

development, and in the case of development which is unauthorised, for the retention of that unauthorised development.

5.7 Article 6 of the Planning & Development Regulations 2001-2023

Article 6 of the Planning & Development Regulations 2001-2023 provides (subject to the restrictions in article 9 of the Planning & Development Regulations 2001-2023) for the classes of exempted development under column 1 of Parts 1, 2 and 3 of Schedule 2, subject, where applicable, to the conditions and limitations imposed upon such classes as set out in column 2.

Class 33

Development consisting of the laying out and use of land—

(a) as a park, private open space or ornamental garden,

(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.

} Meets criteria

Conditions and Limitations

The area of any such shrine shall not exceed 2 square metres, the height shall not exceed 2 metres above the centre of the road opposite the structure and it shall not be illuminated.

5.8 Article 9 of the Planning & Development Regulations 2001-2023

Article 9 of the Planning & Development Regulations 2001-2023 imposes specific restrictions on development of classes specified in Parts 1, 2 and 3 of Schedule 2 and in effect de-exempts certain classes of development that would be exempt under normal circumstances.

6.0 Assessment

The question has arisen as to whether the laying out of a football pitch is or is not development and is or is not exempted development. In this regard it is necessary to consider the question of "development" and "exempted development" as provided for in statute and summarised above.

6.1 "Development"

It is considered that the laying out of a football pitch falls within the statutory interpretation of works and therefore within the section 3(1) PDA 2000 definition of development.

6.2 "Exempted Development"

Based on the submitted drawings and particulars with this proposal, the proposal would be assessed against Schedule 2, Part 1, Class 33 (Development for amenity or recreational purposes) of the Planning and Development Regulations 2001 (as amended). It is considered the works would come within the scope of Schedule 2, Part 1, Class 33 (Development for amenity or recreational purposes) of the Planning and Development Regulations 2001 (as amended).

6.3 Restrictions on Exemptions

Notwithstanding the above, the restriction on exemptions under Article 9 (inclusive) of the Planning and Development Regulations 2001 (as amended) are applicable.

In particular Article 9(1)(a)(viiB) which states;

'Comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site'

7.0 Appropriate Assessment

As part of this declaration for exemption the applicant has submitted an Appropriate Assessment Screening report prepared by gannon + associates. This report outlines that the proposed development is located outside of any European sites. The closest European sites to the proposed development are the Boyne Coast and Estuary SAC (Site Code: 001957) and Boyne Estuary SPA (Site Code: 004080) situated approximately 100m west of the proposed pitch at their closest point. The North-West Irish Sea SPA (Site Code: 004236) is situated approximately 1.5km east and the River Boyne and River Blackwater SAC (Site Code: 002299) is situated approximately 2.5km to the west. The submitted AA Screening also sets out all Natura 2000 sites within a 15km radius;

- Boyne Coast and Estuary SAC (Site Code: 001957) – c. 6m west.
- Boyne Estuary SPA (Site Code: 004080) – c. 100m west.
- North-West Irish Sea SPA (Site Code: 004236) – c. 1.5km east.
- River Blackwater SAC (Site Code: 002299) – 2.5km east.
- River Nanny Estuary and Shore SPA (Site Code: 001458) – c. 4.3km southeast.
- Clogher Head SAC (Site Code: 001459) – c. 7.3km northeast.
- River Boyne and Blackwater SPA (Site Code: 004232) – c. 8.4km west.

The submitted AA Screening concludes that;

'The potential connectivity between the proposed development and European sites in relation to the suitability of habitats within the site foraging overwintering waterbirds and disturbance effects were assessed for their significance and determined that there is no potential for significant effects on any European Site as a result of the proposed development.'

The proposed development is minor, consisting the setting out of a sports pitch as indicated in Figure 5. It is considered that there is no potential for the proposed development to act in combination with any other projects in the vicinity such that could cause likely significant effects to any European sites'.

It should be noted that a previous planning permission on neighbouring lands, An Bord Pleanála noted due regard was not had to wintering birds on this site and the subsequent planning application was refused as detailed in the planning history in section 3.0.

The Planning Inspector noted:

- 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. X
- 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. X
- The impacts of the proposed development on the Conservation Objectives of the Boyne Estuary SPA has not been adequately reviewed in the NIS. X
- 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. X
- The NIS is not underpinned by any bird survey work or relative to wintering water birds. X 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. ??

In the Planning Inspector's assessment regarding the NIS submitted under LB/180961, the Inspector concludes *"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....."* *Referred site.*

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.....

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."

Furthermore, the applicant has previously received a notice that the proposed works were not exempted development on the basis that the Planning Authority 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 (Site Code: 004080) and the Boyne Coast and Estuary SAC (Site Code: 001957) or any other European site, in view of the sites Conservation Objectives.

The Planning Officer notes that under this application, the applicant has submitted an AA Screening prepared by gannon + associates, which rules out any impacts on European Sites

from the proposed development. However, the Planning Officer considers that due to the planning history on the subject site, this Appropriate Assessment Screening does not provide sufficient evidence that the proposal would not have any impacts on the Conservation Interests of the Boyne Estuary SPA. As stated by the Planning Inspector under the previous application on neighbouring lands, it is considered to rule out impacts of development on this SPA, the appropriate wintering bird survey of the site should be carried out at the appropriate time of the year. The AA screening report fails to take account of potential impacts of operational noise on Natura 2000 sites. Pitch drainage measures do not appear to have been considered. X

Therefore, it is considered that on the basis of the information provided, the Planning Authority 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 (Site Code: 004080) and the Boyne Coast and Estuary SAC (Site Code: 001957) or any other European site, in view of the sites Conservation Objectives.

Therefore, having regard to the above it is considered the proposed development would not be deemed exempt in this instance.

8.0 Conclusion and Recommendation

It is therefore recommended that a declaration of Exemption not be issued for the laying out of a football pitch as indicated on the submitted plans and particulars.

WHEREAS the question has arisen as to whether

- *"Whether the laying out of a football pitch' is or is not development and is or is not exempted development.*

AND WHEREAS Meath County Council in consideration of this question has had regard particularly to:

- (a) Sections 2(1), 3(1), 4(4), & 177U(9) of the Planning and Development Act 2000 – 2022,
- (b) Article 6 & 9 of the Planning and Development Regulations, 2001-2023
- (c) Information provided.

AND WHEREAS Meath County Council has concluded: -

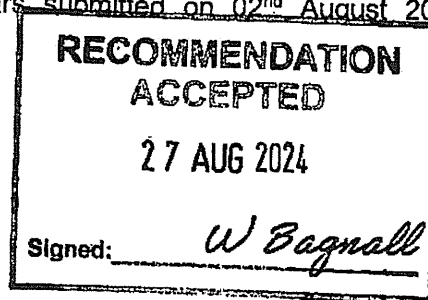
- (a) Laying out of a football pitch at Tower Road, Mornington, Co. Meath is not exempted development from the requirement to obtain planning permission, as on the basis of the information provided the Planning Authority cannot be satisfied that the proposed development individually or in combination with other plans and projects, would not be likely to have a significant effect on the integrity of the Boyne Estuary SPA (Site Code: 004080) and the Boyne Coast and Estuary SAC (Site Code: 001957) or any other European site, in view of the sites Conservation Objectives. Therefore, the proposed works would not be exempt as per Article 9(1)(a)(viiB) of the Planning and Development Regulations, 2001-2023 and Section 4(4) of the Planning and Development Act 2000-2022.

NOW THEREFORE Meath County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000-2022 hereby decides that the said

development as detailed on plans and particulars submitted on 02nd August 2024 is development and is not exempted development.

Nathan Cooney

Nathan Cooney
Executive Planner
Date: 16/08/2024



Wendy Bagnall
Senior Executive Planner