



30 March 2020

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Our ref: FAC 065/2019**

**Subject: Appeal in relation to afforestation licence CN81982**

Dear [REDACTED]

I refer to your appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine (DAFM) on licence CN81982.

The FAC established in accordance with Section 14 A (1) of the Agriculture Appeals Act 2001 has now completed an examination of the facts and evidence provided by the parties to the appeal.

**Background**

Afforestation licence CN81982 was granted by the DAFM on 14 March 2019.

**Hearing**

A hearing of appeal 065/2019 was conducted by the FAC on 25 March 2020.

**In Attendance at Hearing:**

FAC Members: Mr. Des Johnson (Chairperson), Mr. Pat Coman, Mr. James Conway & Mr. Vincent Upton

**Decision**

Having regard to the evidence before it and, in particular, the considerations and reasoning set out below, the FAC has decided to cancel the decision of the Minister regarding licence CN81982:

The proposal is for afforestation on a stated site area of 16.10 hectares. The site elevation is stated to be exposed, between 130.0m and 150.0m, and the soil type is mineral. Ground preparation would include woody weed removal, ripping and mounding. There would be slit planting and 250kg granulated rock phosphate would be applied. Herbicide control is proposed in years 0-3. The proposal involves plots at 3 separate locations, the most northerly of which is steeply sloping and borders a lake. The area is rural and agricultural in character with a dispersed settlement pattern, mainly along public roads. There is a series of lakes, including Lough Gowna, a short distance to the north. Lough Gowna is a proposed NHA in the County Development Plan and the landscape is designated as High Sensitivity.

The DAFM referred the application to Longford County Council, An Taisce and the Department of Culture, Heritage and the Gaeltacht. In response, the County Council raised concerns regarding proposed access arrangements, and stated that the site is adjacent to a Natural Heritage Area (NHA) as defined in the County Development Plan, and in an area of High Amenity with views of Lough Gowna from public roads. The submission states that the proposed development would negatively impact on the setting of the NHA and on public views and recommends refusal of the licence. An Taisce raised concerns regarding potential impact on water quality, recommended an exclusion zone for the archaeological monument on the site, referred to the landscape designation as moderate sensitive and stated that broadleaf planting would be a better option. The Department of Culture, Heritage and the Gaeltacht contended that the area marked 046 is not suitable for planting and that there should be no planting between the road and the lakeside. There is potential for pollution from run-off on a steeply sloping site. Issues are raised regarding requirements for public authorities under the Habitats and EIA Directives and also the Environmental Liability Directive.

The proposal was modified following these submissions from these bodies and prior to approval, with the western part of the area marked 046 assigned for biodiversity and the remaining part of the area marked 046 amended to GPC 9 Native Woodland Establishment.

There is one appeal against the DAFM decision. The grounds of appeal are briefly summarised as follows:

- Conditions imposed partly ease the impact of the proposed development on the local community, landscape and heritage
- This area has no landline or broadband connection and there is poor mobile reception. The area is solely reliant on wireless internet which only works through "line of sight". Proposed afforestation block 751 will block the signal to the appellants property. The service provider (email attached to submission) advises that a loss of "line of sight" will result in loss of signal.
- Signal is critical for the appellants business run from home.
- The Forestry Services view that signals usually emit from either satellite or aerials on elevated areas is incorrect.
- The appellants suggest the placement of a small buffer zone and submit an illustrative map.

In response the DAFM state that an unplanted area in the southern area of parcel 396 (referred to in grounds of appeal as parcel 751) (Plot 6) would maintain "line of sight" internet signal, and a Condition attached to the licence could read "In order to avoid disruption to internet signal, no planting shall be permitted within 20m of the southern boundary of Parcel 396 (Plot 6). In addition, 5 rows of Rowan shall be planted between conifers and unplanted area".

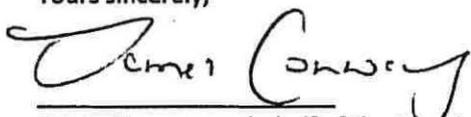
The issue raised in respect of wireless internet provided through "line of sight" appears to be accepted by the DAFM who contend that the matter could be resolved by way of a condition attaching to the licence. It is not clear to the FAC if there is only one service provider for this area, but based on the information on file it appears to the Committee that the matter could be satisfactorily resolved by way of a condition attaching to the licence.

There was no information provided by DAFM or the parties to the appeal relating to any relevant Natura 2000 sites within a 15km radius of the proposed development, however the FAC understand there are seven such sites. The FAC requested Further Information from the DAFM regarding the screening procedures followed in respect of screening for appropriate assessment in accordance with the provisions of the Habitats Directive. In response the DAFM stated that standards of Good Forestry Practice were

taken into consideration in terms of their potential to avoid or reduce the likely effects of the proposed development on the integrity of Natura 2000 sites and that, if the application was re-screened today for appropriate assessment it would not be screened out.

Based on the information before it, including the DAFM submission in response to the Further Information request, the FAC considered that the requirements of the Habitats Directive in respect of Stage 1 screening for appropriate assessment were not satisfactorily met prior to the granting of the licence. In the absence of essential information relating to relevant European sites, and other plans and projects in the vicinity, the Committee concluded that it is not in a position to satisfactorily evaluate the likely significant effects of the proposal on the environment or possible effects on any relevant European site. Furthermore, the FAC noted the amenity status and sensitivity of the landscape and considered that, in this particular case, there is inadequate assessment of the impacts of the proposed development on the landscape character of the area. In such circumstances, the FAC decided to cancel the licence.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'James Conway', written in a cursive style.

James Conway, on behalf of the Forestry Appeals Committee

