



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

30 March 2020

Subject: Appeal 459/2019 CN84959

Dear [REDACTED]

I refer to the appeal to the Forestry Appeals Committee (FAC) in relation to the above licence issued by the Minister for Agriculture, Food and the Marine. 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 all parties to the appeal.

#### Background

A decision to grant licence CN84959 for 5.75 ha afforestation at Leamanish Co Leitrim was issued by the Department of Agriculture, Food and the Marine 25 Nov 2019.

#### Hearing

The hearing of appeal 459/2019 was conducted by the FAC on 25 March 2020.

**FAC Members:** Mr Des Johnson (Chairperson), Mr Pat Coman, Mr James Conway and 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 confirm the decision of the Minister regarding licence CN84959.

*The Department's response to the grounds of appeal included as follows; 'The Forest Service carried out a detailed desk assessment of this file. There is no hydrological connection to any Natura site. The closest Natura site outlined below is located over 7 Km away in an upland area. The AA procedure relevant at the time was carried out. This proposal will not have an impact alone or in-combination with other forest and non-forest plans or projects in the area. Save Leitrim in their grounds of appeal have raised national policy issues and the Forest Service cannot alter or change its decision based on the policy grounds raised. This proposal has been approved in line with all standard operating procedures and standards required from an approval point of view'.*

Before making its decision, the FAC considered all of the information submitted with the application, the processing of the application by the DAFM, the grounds of appeal and submissions and observations received.

The application is for afforestation of 5.7 Ha with 570m sheep stock fencing at Leamanish, Co Leitrim, the site is in 4 plots of which two minor ones are bio area, the species area is 5.3 ha and is proposed for 85% Sitka Spruce and 15% broadleaves. The site is a collect of small agricultural fields bounded by hedgerows, is in a rural agricultural area with a dispersed settlement pattern and rural public roads. Existing hedgerows are required to be retained and standard setbacks apply from each of the public roads. The site is enclosed agricultural land and comprises mineral soil – predominantly podzols in nature, vegetation is grass-rush. The site is moderately sloped, with elevations of between 30m and 60m, is drumlin type terrain with south neutral aspect. Fertiliser is licenced for 250 kg ground rock phosphate per ha and use of herbicides is for year 1 and year 2. The licence under appeal is subject to standard conditions.

The grounds of appeal include concern at the Department's Appropriate Assessment Screening and a statement that these lands are foraging grounds for 'Hen Harrier from the SAC'. On this point no SAC is identified and in screening the project the FAC found that the Hen Harrier is not listed as a qualifying species of interest on any SAC or SPA within 30km.

The appeal grounds refer to Castlefore Lough and its environs as feeding grounds for EU protected otter and waterfowl. Castlefore Lough is a mesotrophic freshwater lake with wetlands and is not a designated site. In addition, the project lands are elevated, across a public road junction and at a distance of 100m approximately from the Lough, and there is no reason to conclude that the lands are a habitat for the species mentioned.

The appeal grounds include that the issuing of the licence conflicts with Leitrim's County Strategic Environmental Assessment and their Water Quality programme. The Leitrim County Council website evidences that the Strategic Environmental Assessment (SEA) is a formal process, involving the systematic evaluation of the likely significant environmental effects of implementing the new County Development Plan. Figures 26 and 27 of the Strategic Environmental Assessment relate and the site borders an area listed as High Visual Amenity on the Leitrim County Development plan and the site is within a zone of medium capacity to accommodate forestry. Leitrim Co. Council has adopted the three river basin plans committing itself to achieving their goals in accordance with the EU Water Framework Directive. The FAC considers the site due to its location and absence of hydrological connectivity does not pose any meaningful risk to water quality. Appeals grounds raise concern over the River Shannon. This site, within the Erne catchment, has no evident watercourse, no direct hydrological connectivity and with retained hedgerows and field boundaries can pose no risk to the Shannon.

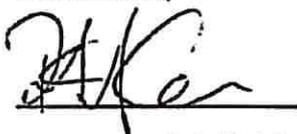
The afforestation of the lands at Leamanish is not connected to or necessary for the management of any European Site. Also, the project site has no discernible connectivity hydrological or other wise to the Cuilcagh-Anierin Uplands SAC, within the Shannon Catchment, at 7.2 km and above 200m versus the project altitudes of 30m to 60m, and no species of interest (birds or wildlife) are listed for the site and no foraging range arises. The qualifying interests of the SAC are of such a nature that the elevations, distances and lack of connectivity exclude any possibility of effects. The absence of connectivity and distances of separation from the project to the other European sites listed are such that, when considering their qualifying interests, that no possibility of any effect arises. In addition, the FAC examined for possible in-combination effects of other plans and projects in Leamanish and surrounding townlands identified from the Leitrim County Council planning website, the EPA website and the information provided by the Department in respect of afforestation, felling and forest road projects. For reasons of separation, qualifying interests and project types, the project at appeal when considered

in combination with any of the aforementioned does not give rise to any possibility of a significant effect on European site and the licence does not include any additional conditions that are mitigation regards a European site.

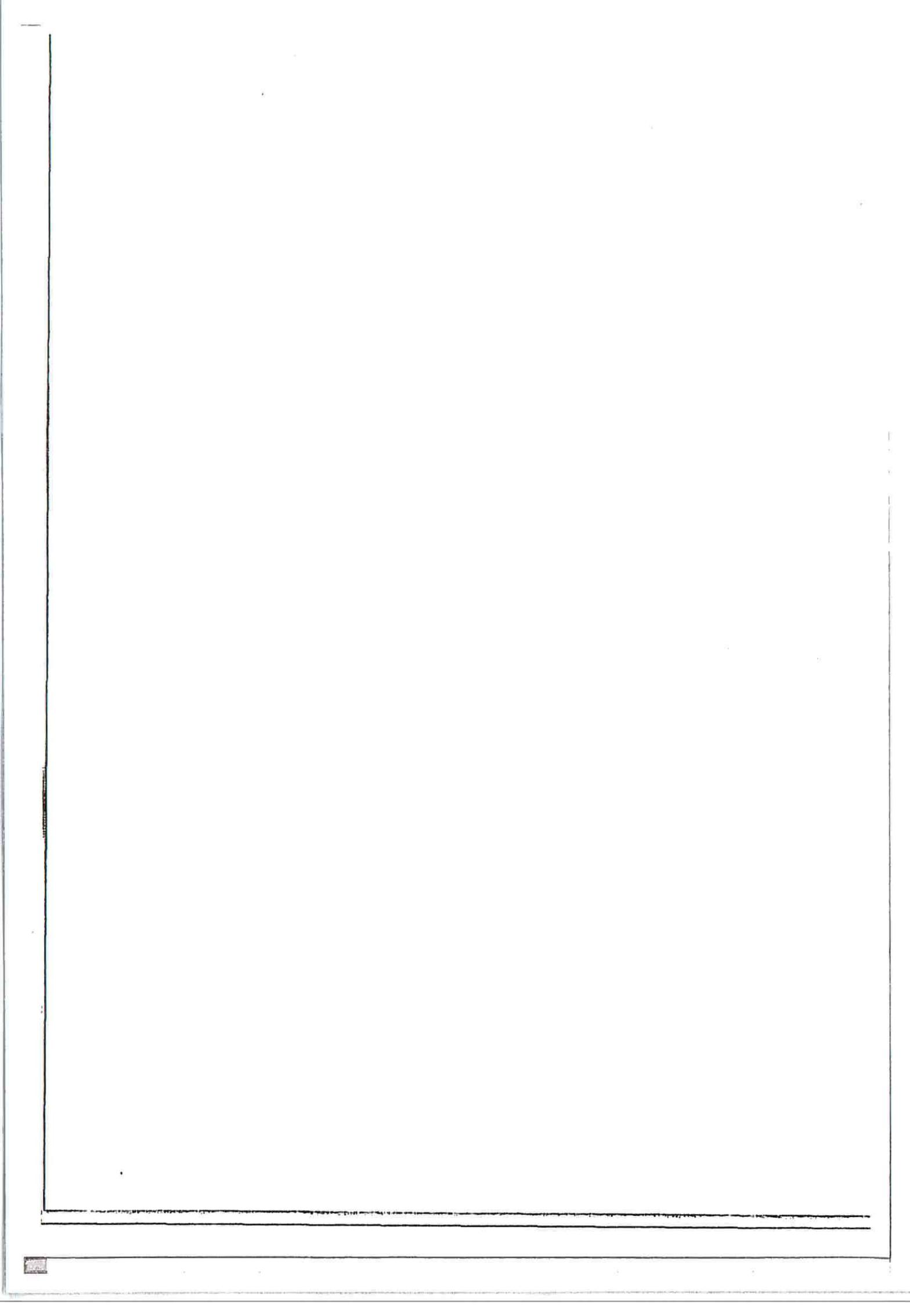
The area of planting proposed, at 5.7 Ha, is well sub-threshold in comparison to the 50 Ha limit above which EIA is mandatory. There are no exceptional sensitivities relevant to the area which would dictate that EIA is required. The site is not within an area designated as being of outstanding natural beauty or high visual amenity in the current Co. Leitrim development plan, while there is an area of high visual amenity on the north side of the main road. The site is within a zone identified by Leitrim County Council as medium capacity to accommodate forestry. The FAC is conscious that due to the hillside location of the lands the proposed afforestation would be visible from some locations in the surrounding area, but would not, however, be particularly prominent or out of character in the landscape. The FAC considers that the tree planting proposed would not have a significant impact on the landscape by itself or cumulatively with other developments. The FAC concluded that the proposed project would not be likely to have significant effects on the environment and the carrying out of EIA is not required.

In deciding to confirm the decision of the Minister to grant the licence, the FAC considered that the proposed development would be consistent with Government policy and Good Forestry practice.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'P. Coman', written over a horizontal line.

Pat Coman on behalf of the Forestry Appeals Committee



### Appeal 459/19 CN84959 – Appropriate Assessment Screening

The application is for afforestation of 5.7 Ha with 570m sheep stock fencing at Leamanish Co Leitrim, the site is in 4 plots of which two minor ones are bio area, the species area is 5.3 ha and is proposed for 85% Sitka Spruce and 15% broadleaves.

Site is enclosed agricultural land and comprises mineral soil – predominantly podzols in nature, vegetation is grass-rush. The site has a gradient of <15% and elevations are 30m to 60m – the site is drumlin terrain with south neutral aspect. Fertiliser is planned for 250 kg ground rock phosphate per ha and use of herbicides for year 1 and year 2.

*Location* - Site is located on inner of two public road adjacent to a multi-road junction and is about 2 km northeast of Keshcarrigan village. The Castlefore Lough is to the southwest of the site and approx. 100m on the far side of the crossroads. Castlefore Lough is a mesotrophic freshwater lake with wetlands and is not a designated site.

The surrounding area is a mixture of agriculture and forestry, Leamanish has 39% afforestation.

### European Sites

The most proximate European Site is the Cuilcagh-Anierin Uplands SAC at 7.2 km, the Lough Oughter and Associated Loughs SAC, the Lough Oughter Complex SPA and the Boleybrack Mountain SAC are all in excess of 21 km from the site. The EPA website shows the area to be within the Erne Catchment.

Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
SAC 000584	Cuilcagh - Anierin Uplands SAC	7243.75	<b>Habitats;</b> Oligotrophic waters containing very few minerals of sandy plains. Natural dystrophic lakes and ponds. Northern Atlantic wet heaths with <i>Erica tetralix</i> . European dry heaths. Alpine and Boreal heaths. Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas Blanket bogs Transition mires and quaking bogs. Petrifying springs with tufa formation Siliceous scree of the montane to snow levels. Siliceous rocky slopes with chasmophytic vegetation <b>Species;</b> Slender Green Feather-moss
SAC 000007	Lough Oughter and Associated Loughs SAC	21719.42	<b>Habitats;</b> Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation. Bog woodland* <b>Species;</b> Otter
SAC 002032	Boleybrack Mountain SAC	21947.89	<b>Habitats;</b> Natural dystrophic lakes and ponds Northern Atlantic wet heaths with <i>Erica tetralix</i> European dry heaths. <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils Blanket bogs

The afforestation of the lands at Leamanish is not connected to or necessary for the management of any European Site. Also, the project site has no discernible connectivity hydrological or other wise to the Cuilcagh-Anierin Uplands SAC, within the Shannon Catchment, at 7.2 km and above 200m versus

the project altitudes of 30m to 60m, and no species of interest (birds or wildlife) are listed for the site and no foraging range arises. The qualifying interests of the SAC are of such a nature that the elevations, distances and lack of connectivity exclude any possibility of effects. The absence of connectivity and distances of separation from the project to the other European sites listed are such that, when considering their qualifying interests, that no possibility of any effect arises. The afforestation of the project lands does not give rise to any possibility of a significant effect on a European site and the licence does not include any additional conditions that are mitigation regards a European site.

Screening for any possible in-combination effects; In the additional information provided by the Department of Agriculture, Food & the Marine in response to the FAC, the following online plans and projects were identified; 04822 for 2004 in Leamanish to erect a dwelling house with effluent treatment system, 04884 for 2005 in Leamanish to erect a dwellinghouse and domestic garage with entrance and boundary fence, 04969 for 2005 in Leamanish to erect a dwellinghouse with effluent treatment system. The planning permissions identified in the area are for one off houses and exist for a number of years. The EPA website identifies a sewage treatment plant at Keshcarrigan village and primary emission point TPEFF1700A0464SW001, this is 2.6 km from the project site and is between Kescarrigan Lough and Lough Scur and the project does not combine with the emission to give rise to any possibility of a significant effect on a European site. The Department also provided information regards other forestry activities, the projects were as follows; TFL00206518 (2018) for 12.44 ha of thinning at Leamanish, TFL00099218 23.83 ha of felling (2018) at Druminga, TFL00124918 11.13 ha of felling (2018) at Annaderg a neighbouring townland, CN65495 Forest road (2013) at Leamanish, CN81787 624m of forest road (2018) at Corrabarrack, TFL00112118 25.4 ha of felling (2018) at Toomans, CN81789 664m of forest road (2018) at Toomans.

**Conclusion;** For reasons of separation, qualifying interests and project types, the project at appeal when considered in combination with any of the aforementioned does not give rise to any possibility of a significant effect on the European Sites set out above.

#### **Environmental Impact Assessment (EIA) preliminary examination**

The FAC undertook an Environmental Impact Assessment (EIA) preliminary examination - having regard to EU Directive (Directive 2011/92/EU as amended by Directive 2014//52/EU and took into account an independent consultant's report commissioned by the FAC, available on the public file, information provided by the DAFM and information in the public domain. The application is well sub-threshold for mandatory EIA. The site is within an area of agriculture and forestry. In addition, the site is not within an area designated as being of outstanding natural beauty or high visual amenity in the current Co. Leitrim development plan, while there is an area of high visual amenity on the north side of the main road. There are good views available towards the north from the road at the frontage of the project lands. Views to the south, however, are restricted by the rise in the land up from the road level. There is a good view, southwards from the main road, over Castlefore Lough from a location to the west. The site borders an area listed as High Visual Amenity on the Leitrim County Development plan and is within a zone containing high to medium capacity to accommodate forestry. Due to the hillside location of the lands the proposed afforestation would be visible from some locations in the surrounding area. It would not, however, be particularly prominent or out of character in the landscape. The FAC considers that the tree planting proposed would not have a significant impact on the landscape by itself or cumulatively with other developments. The tree planting and subsequent maintenance, thinning and felling will give rise to some additional heavy vehicle traffic on the local roads. This will cause some inconvenience in the short term but would not of itself result in such likely significant effects on the environment as to require compliance with the

full Environmental Impact Assessment process. The FAC considers that the project would not be likely to give rise to significant effects on the environment due to water or air pollution.

The area of planting proposed, at 5.7 Ha, is relatively small in comparison to the 50 Ha limit above which EIA is mandatory. Even when account is taken of other recommended licences within 500 metres, as indicated in the Departments pre-approval assessment, the total with recent plantings also included, as indicated in the assessment, at about 32 Ha, (Page 12 of Inspector Certification pre-approval) is significantly less than the 50 Ha limit. There are no exceptional sensitivities relevant to the area which would dictate that EIA is required.

**Conclusion:** The FAC considers that the proposed project would not be likely to give rise to significant effects on the environment, and the possibility of significant effects on the environment can be ruled out on the basis of this preliminary screening. The FAC concludes that the proposed project would not be likely to have significant effects on the environment and the carrying out of EIA is not required.

Pat Coman, on behalf of the FAC - 27 March 2020

