



3 February 2020

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Our ref: FAC 197/2018

Subject: Appeal in relation to afforestation licence CN80658

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 CN80658.

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 CN80658 was granted by the DAFM on 3 December 2018.

Hearing

An oral hearing of appeal 197/2018 was conducted by the FAC on 21 January 2020 at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois.

In Attendance at Hearing:

FAC Members:	Mr. Des Johnson (Chairperson), Mr. Pat Coman, Mr. James Conway & Mr. Vincent Upton
Appellant:	[REDACTED]
Applicant:	Not Present
Applicant's Representatives:	[REDACTED]
DAFM Representatives:	Mr. Seppi Hona & Mr. Colin Gallagher
Secretary to the FAC:	Ms. Ruth Kinehan

Decision

Having regard to the evidence, before it and, in particular, the following considerations, the FAC has decided to cancel the decision of the Minister regarding licence CN80658:

The FAC finds CN80658 relates to an afforestation licence for 5.86 hectares in the townland of Shean, Co. Offaly, with 85% Norway Spruce and 15% mix of broadleaves. Ground preparation would involve mounding and granulated rock phosphate fertiliser would be applied, with some herbicide use, the application land is currently in agricultural use.

The grounds of appeal were summarised by the Appellant at the oral hearing, under the following headings; distance, drainage and views.

In regard to distance and views:

Standard setbacks distances specified at Section 6.5 of the Department of Agriculture, Food and the Marine (DAFM) Forestry Standards Manual are found to apply, as the licence contains the following condition; *"this licence is issued subject to the terms and conditions of the Forestry Standards and Procedures Manual"*. At the oral hearing there was some discussion regarding the conversion of the appellant's buildings used for stables to apartments for residential use at the rear of his site, but the evidence is that no planning permission has been given or formally sought for this. In these circumstances, the FAC is satisfied that the standard setback distance for roofed farm buildings of 10 meters should apply in this situation as per the DAFM's, Environmental Requirements for Afforestation, December 2016.

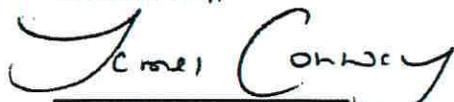
In regard to drainage:

Offaly County Council in its response, dated 7 March 2018, to the referral of details of the proposed plantation to it by the DAFM for observations, noted that the majority of the site in question is located within a Flood Zone. Subsequent to this, the applicant's forester notified the DAFM of drainage repairs undertaken to alleviate drainage concerns on site. The DAFM determined in approving the licence that the drainage concerns were alleviated. At the oral hearing the forester clarified that the drainage work undertaken was of an outlet drain from the site, which was outside of the proposal area, but that further works were required to an underground culvert to the east of the site, with a quotation presented for this additional work.

The FAC finds in section 9, Drainage and Cultivation, of the DAFM's Forestry Standards Manual that *"a drainage survey should be carried out in flat areas or where there are doubts about the drainability of a site"*, that *"the drainage survey should be submitted at Form 1 stage"* and that *"this survey must be carried out by a qualified surveyor or engineer at the appropriate time of the year..."*. The applicant's representative at the oral hearing presented a map from a Consultant Engineers company said to outline areas of flood risk in the general vicinity of the proposed site. This map did not denote the proposed site as at flood risk. No drainage survey or report from a qualified surveyor or engineer was provided though nor was one found on file.

Having considered all of this, the FAC is not satisfied, based on the information before it, that appropriate consideration has been given to the drainability of the site, particularly given the guidelines on drainage in the DAFM's Forestry Standards Manual. The FAC therefore determined that the licence should be cancelled.

Yours sincerely,



James Conway, on behalf of the Forestry Appeals Committee