



Our ref: FAC 043/2019 CN82180

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

13th February 2020

Subject: Appeal in relation to afforestation licence CN82180 Ahane Beg, Cork

Dear [REDACTED]

I refer to your appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine on licence CN82180. 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 CN82180 Ahane Beg, Cork was granted by the Department of Agriculture, Food and Marine on 12th February 2019.

Hearing

An oral hearing of appeal FAC 043/2019 was conducted by the FAC on 28th 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

Secretary to the FAC: Ms. Ruth Kinehan

An Coiste um Achomhairc
Foraoiseachta
Forestry Appeals Committee

Kilminchy Court,
Portlaoise,
Co Laois
R32 DWT5

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An Coiste um Achomhairc
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Appellant: [REDACTED]

Appellant's Representative: [REDACTED]

Applicant: Not present

Applicant's Representative: [REDACTED]

Department Representatives: Mr. Kevin Collins, Mr. Colin Gallagher & Mr. Brian Mahony

Decision

Having considered all of the information before it, the Forestry Appeals Committee (FAC) has decided to cancel licence CN82180.

The licenced proposal is for afforestation on a site area of 13.58 ha. Site preparation would be by mounding and the planting method would be Angle Notch. 250 kg per ha of Granulated Rock Phosphate would be applied. The soil type is stated to be mainly gleys/highly modified peat and peaty podzols in nature and the slope is flat to moderate (<15%). The site is crossed by and adjoins an aquatic zone. Mound drains and silt traps are proposed. The Blackwater River SAC (Code: 2170) is in close proximity to the proposed site and has qualifying interests including freshwater pearl mussel, white clawed crayfish, lamprey, Atlantic salmon and otter. This SAC overlaps with 3 SPAs¹ and is adjacent to Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC.

The written grounds of appeal contend that the proposed afforestation would give rise to a risk of flooding to the appellant's farmland and farmyard, and impact of the viability of his farm. He states that his property is down gradient from the proposed afforestation. The FAC notes that there is a stream flowing in a southerly direction at the western side of the site. However, a portion of the site would drain to the east; the appellant's farmyard is adjacent to the south eastern corner of the proposed site and on the opposite side of the public road. The issues raised in the written grounds of appeal were not elaborated upon at the Oral Hearing. Based on the information before it including the nature and scale of the proposed development and the drainage pattern for the site, the Committee consider that there is insufficient convincing evidence to support the appellant's contention that the proposed afforestation as licenced would give rise to the flooding of his property or impact of his farm's viability, and that it would be unreasonable to cancel the Licence on these grounds.

However, the FAC is not satisfied that the procedure adopted by the DAFM in undertaking a Stage 1 screening for Appropriate Assessment, before making its decision, meets the relevant requirements of the Habitats Directive. In coming to this conclusion, the FAC had regard to the proximity to the

¹ Blackwater Estuary SPA, Blackwater Callows SPA and Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA.



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Blackwater River SAC and its qualifying interests, measures for site drainage and control of sediment for the proposed development, submissions made by the DAFM in response to a request for Further Information and at the Oral Hearing that, in carrying out the screening, it had considered mitigation measures with the potential to avoid or reduce the likely effects of the proposed development on the integrity of any Natura 2000 sites in view of those sites' conservation objectives, and had failed to consider potential in-combination effects arising from the proposed development together with other plans and projects in the area. Furthermore, the FAC is of the view that the licenced project in its own right, aside from any in-combination effects with other plans and projects, should not have been screened out for Appropriate Assessment.

Yours sincerely,

Vincent Upton On Behalf of the Forestry Appeals Committee

