



Our ref: FAC112/2019 CN83055

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

13th February 2020

Subject: Appeal in relation to licence CN83055 Cornabroher, Co. Leitrim

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 CN83055. 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

Forest road licence CN83055 Cornabroher, Co. Leitrim was granted by the Department of Agriculture, Food and Marine on 09/04/2019.

Hearing

An oral hearing of appeal FAC112/2019 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

Appellant: [REDACTED]

Applicant: Not present

Department Representatives: Mr. Martin Regan, Mr. Colin Gallagher

An Coiste um Achomhairc
Foraoiseachta
Forestry Appeals Committee

Kilminchy Court,
Portlaoise,
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R32 DWT5

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Decision

Having regard to the evidence, written and oral, before it and, in particular, the considerations set out below, the FAC has decided to vary the decision of the Minister regarding licence CN83055 as follows:

The applicant must submit a Biomap to the standard outlined in Circular 09/2019 to the written satisfaction of the Department of Agriculture, Food and the Marine before works on the forest road commence.

Regulation 6(2) of the Forestry Regulations 2017 state that

An application for a licence in respect of forest road works shall contain—

(a) an Ordnance Survey map or other map acceptable to the Minister, with the boundary of the land to which the application relates delineated and the route of the proposed road clearly marked and shall clearly show the following details—

- (i) public roads,*
- (ii) forest roads,*
- (iii) aquatic zones,*
- (iv) wayleaves,*
- (v) archaeological sites or features,*
- (vi) hedgerows, and*
- (vii) any other features which may be relevant to the application,*

The Department of Agriculture, Food and the Marine (DAFM) have amended its application process through Circular 09/2019 which requires applicants to clearly mark hedgerows and other features on maps submitted with applications. While the FAC considers this amendment to be an improvement on the application process the Forestry Regulations 2017 require submitted maps to clearly show the features. Hedgerows were visible on the Biomap submitted with the application and were identified and discussed on this document during the oral hearing. Regarding archaeological features, while one is marked to the north of the forest road the proposal was considered by a DAFM Archaeologist who noted that the feature, sweathouse (LE 021-012) lies 130m from the proposed development and that no specific archaeological recommendations were required. This aligns with the response from Leitrim County Council. The FAC therefore considers that the maps submitted with this application do not represent a significant breach of the Forestry Regulations 2017. However, in recognition of the improved application process that the DAFM initiated on 27th May 2019 and to address the concerns of the appellant in this particular case the FAC is attaching a condition for the submission by the



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applicant of an additional Biomap that meets the requirements set out in Circular 09/2019 to the DAFM before works can commence on site.

Regarding a site notice in respect of forest road works Regulation 11 (2) (b) states a notice shall

be maintained in position on the land concerned for a period of not less than 5 weeks from the date of the application and shall be renewed or replaced if it is removed or becomes defaced or illegible within that period

While the requirement is to have a notice in place for a minimum of 5 weeks this period is linked to the date of application. Furthermore, the second part of this sentence provides recognition of the possibility of the notice being defaced or becoming illegible and that the notice shall be renewed or replaced within the specified period. In regards licence CN83055, the Applicant replaced the site notice within 2 days of being notified by the DAFM. The FAC considers that this represents a prompt response from the Applicant to replace a site notice within the period that it is required to be in position. Furthermore, the FAC was provided with observations submitted by another party resulting from a site notice, which provides some evidence that public consultation regarding the application was successful. The FAC also recognises that details of the licence were published on the website of the DAFM. The FAC therefore considers that Regulation 11 of the Forestry Regulations 2017 and the overall policy of providing for public consultation on forestry licences have been met in this case.

In relation to the Appropriate Assessment screening procedure of the Department of Agriculture, Food and the Marine (DAFM). In additional information requested by the FAC the DAFM noted that their procedures have changed since this licence was issued. The FAC has therefore considered the possible impacts of the road on Natura 2000 sites. The Cuilcagh - Anierin Uplands SAC lies some 3km to the northeast of the proposed road and associated forest. This SAC covers an area of 9,735.6 ha and has the following qualifying interests:

3110 Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae)

3160 Natural dystrophic lakes and ponds

4010 Northern Atlantic wet heaths with Erica tetralix

4030 European dry heaths

4060 Alpine and Boreal heaths

6230 Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)*

7130 Blanket bogs (* if active bog)

7140 Transition mires and quaking bogs



7220 Petrifying springs with tufa formation (Cratoneurion)*

8110 Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani)

8220 Siliceous rocky slopes with chasmophytic vegetation Species

1393 Slender Green Feather-moss (Drepanocladus vernicosus)

* indicates a priority habitat under the Habitats Directive

The proposed road is being developed in an existing semi-mature coniferous forest. Given the level of separation between the road and the SAC and the absence of habitats associated with the Cuilcagh - Anierin Uplands SAC, the FAC does not consider there to be any possibility of a significant effect arising from the development of this forest road. There are no other Natura 2000 sites within this sub catchment and the next closest Natura 2000 site is Boleybrack Mountain SAC which is c.17km from the site and also includes habitats associated with mountainous and upland areas. Based on the scale of the forest road development and its degree of separation the FAC does not consider it possible for the forest road to have a significant effect on any other Natura 2000 site. In conclusion the FAC does not consider that this forest road could result in the possibility of a significant effect, either alone or in combination with other plans or projects, on any Natura 2000 site.

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, including information provided at the Oral Hearing. The FAC concluded that the proposal is consistent with Government policy and Good Forestry practice and would not be detrimental to the amenities of the area.

Note: The granting of this licence should not be interpreted as meeting any requirement to obtain planning permission under planning legislation in circumstances where the provisions of that legislation require permission to be obtained. If you are in any doubt as to whether planning permission is required, it is recommended that you contact the relevant planning authority for clarification.

Yours sincerely,

Vincent Upton On Behalf of the Forestry Appeals Committee