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27th February 2020

Subject: Forest road licence appeal FAC085/2018 CN79165

Dear [Redacted]

I refer to your 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

Licence CN79165 for the construction of 400m of forest road at Glentanemacelligott, Co. Cork was approved by the Department of Agriculture, Food and the Marine on 28th March 2018.

Hearing

An oral hearing was conducted by the FAC at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois on 25th February 2020.

In attendance at the oral hearing:

FAC Members:	Mr. Des Johnson (Chairperson), Mr. Pat Coman, Ms. Mary Lawlor & Mr Vincent Upton
Secretary to the FAC:	Ms. Ruth Kinehan
Appellant:	Not present
Applicant:	Not present

Department Representative: Mr. Seppi Honna, Mr. Joe O'Donnell

Decision

Having regard to the evidence, written and oral, 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 CN79165.

The decision was related to 400m forest road to service an area of 23.48 ha due for first thinning, comprised of 16.6ha of Sitka spruce and 6.88ha of alder planted in 2003. The licence was issued with the following Environmental and Silvicultural Conditions:

- Adhere to COFORD forest roads manual specifications and dimensions.,
- Have roadside drains either side of the road. Divert roadside drains into adjoining lands, away from the road, at 50-60m intervals to prevent erosion.,
- Have 100mm of pavement surface, compacted with a vibrating roller and with at least 100mm of camber.,
- Adhere to forestry & water quality guidelines,
- All guidelines to apply,
- The recommendation from S W REGIONAL FISHERIES BOARD was: All guidelines to apply
- The recommendation from CORK COUNTY COUNCIL was: Adhere to forestry & landscape guidelines
- The recommendation from NATIONAL PARKS & WILDLIFE was: All guidelines to apply

In their submitted notice of appeal, the Appellant contended that the DAFM had not undertaken an appropriate assessment screening in line with national and EU legislation, with specific references to the inclusion of mitigation measures designed to reduce the impact on a European site in the assessment and that other plans and projects in the vicinity were not sufficiently assessed. While the initial statement provided by the DAFM in response to the appeal stated that it would confirm the licence, in response to a request for additional information from the FAC, the DAFM stated that it took into consideration mitigation measures in its assessment of the potential impact of the proposed development on the integrity of European sites and their conservation objectives. The DAFM considered that this project would not be screened out at the stage that it had been under their new procedures, which was confirmed at the oral hearing. No information was provided to the FAC regarding other forestry projects in the vicinity. The FAC noted that the procedural conclusions identified by the Appellant as not being acceptable under the EU Habitats Directive were employed in the assessment undertaken by the DAFM.

The proposed road is surrounded by the Mullaghareirk Mountains, West Limerick Hills & Mount Eagle SPA (Site code: 004161) on all sides and a small portion of the proposed road and setback overlaps with the boundary of the SPA, as identified at the oral hearing. The forest to be serviced by the road lies within the SPA. The conservation objective of this SPA is to maintain or restore the favourable conservation condition of the Hen Harrier. At the oral hearing it was also noted that the road may be directly hydrologically connected with the Blackwater River (Cork/Waterford) SAC (Site code: 002170),

the boundary of which lies some 1.4km southwest of the site. The conservation objectives of this SAC include the Freshwater Pearl Mussel, which is sensitive to sedimentation of waterways.

Based on the initial appropriate assessment screening procedure as described, the absence of sufficient information before the FAC for it to consider potential impacts of the proposal, alone or in combination with other plans or projects, on European sites, and the response from the DAFM regarding their assessment of the proposed forest under current procedures, the FAC is cancelling the decision to issue licence CN79165.

Yours sincerely,

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

Vincent Upton on Behalf of the Forestry Appeals Committee

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