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27<sup>th</sup> February 2020

Subject: Afforestation licence appeals FAC173/2018, 187/2018, 188/2018, 189/2018, 190/2018,  
189/2018 CN81189

Dear [REDACTED]

I refer to the appeals 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

Afforestation licence CN81189 at Beihy, Co. Leitrim was issued on 23<sup>rd</sup> October 2018.

#### Hearing

An oral hearing was conducted by the FAC at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois on 25<sup>th</sup> 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

Appellants: [REDACTED]  
[REDACTED]

Applicant: Not present

Department Representative: Mr. Seppi Honna, Ms. Mary Coogan

## Decision

Having regard to the evidence, both written and oral, before it and the following considerations, the FAC has decided to cancel the decision of the Minister regarding licence CN81189.

The proposal is for afforestation on a stated site of 6.44 ha at Beihy, Co. Leitrim. The site is stated to be exposed and flat, and with an elevation of 50-70m on mineral and peat soil. It is enclosed agricultural land with a grass, grass rush vegetation type. This is a rural agricultural area with a generally dispersed settlement pattern, but with a number of dwellings proximate to the main body of the proposed site. There is little existing forestry in the vicinity. There is a stream adjacent to the east of the main body of the site and this is fronted by a small plot (278) which is to be planted subject to setback from the stream. Evidence submitted at the Oral hearing is that there is a drain flowing eastwards from plots 503 and 484 to eventually join this stream. There is a public road between the main body of the site and the stream to the east.

The proposed site is 6.9km distance from Ballykenny-Fisherstown Bog SPA. The qualifying interest for this SPA is the Greenland White-fronted Goose. This species has a foraging range of 8 km – the proposed site is located within this range.

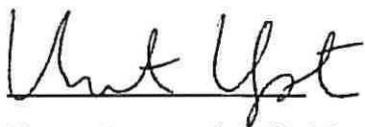
There are 5 Appellants and the grounds of appeal raise a range of issues, including lack of consultation, deficiencies in the Bio Map submitted, absence of environmental reports and an EIA, fire and road safety hazards, loss of amenity for residents in the area, and risk of water pollution. The FAC concluded that the proposed development is significantly sub-threshold for the purposes of EIA and did not accept the contention that the proposal would pose a significant fire or road safety hazard. Any impact of the residential amenities of property in the vicinity would be significantly ameliorated by the provision of setbacks. The FAC concluded that the proposed afforestation would not be likely to give rise to serious risk of water pollution. The FAC noted that there are deficiencies in respect of the Bio Map made available with the application. The role of national policy for afforestation was also raised but is outside the remit of the FAC.

Separately, during the consideration of the file, the FAC requested further information in respect of the appropriate assessment procedures adopted by the DAFM. In response, the DAFM stated that, in carrying out its screening, mitigation measures were considered in terms of their potential to avoid or reduce the likely effects on the integrity of European sites and that if the application was re-screened at this stage it would not be screened out. The response did not supply further information in respect of potential for in-combination effects with other plans or projects in the area. At the Oral Hearing, the Inspector reiterated the view expressed in the submission of further information.

Based on the information before it, including the DAFM response to the FAC's request for further information and the submission made at the Oral Hearing, the FAC considered that the requirements of the Habitats Directive in respect of Stage 1 screening for Appropriate Assessment were not satisfactorily met prior to the granting of the licence. Furthermore, in the absence of essential information relating to relevant European sites, and other plans and projects in the vicinity, the Committee considered that it is not in a position to satisfactorily evaluate the likely significant effects of the proposal on the

environment or on any relevant European sites. In these circumstances, the FAC has decided to cancel the decision.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Vincent Upton". The signature is written in a cursive style with a horizontal line underneath the name.

Vincent Upton, on behalf of the Forestry Appeals Committee.

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