



Our ref: FAC175/2018 CN81619

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[REDACTED]

29th January 2020

Subject: Appeal in relation to afforestation licence CN81619 Knockbrack, Co. Mayo

Dear [REDACTED]

I refer to the appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine on licence CN81619. 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 CN81619 at Knockbrack, Co. Mayo was granted by the Department of Agriculture, Food and Marine on 02/10/2018.

Hearing

A hearing of appeal 175/2019 was conducted by the FAC on 14th 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

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Foraoiseachta
Forestry Appeals Committee

Kilminchy Court, Eon/Telephone 076 106 4418
Portlaoise, 057 863 1900
Co Laois
R32 DWT5



Appellant: [REDACTED]
Applicant: Not present
Applicant's Representative: [REDACTED]
Department Representatives: Mr David Ryan, Ms Lisa Chigara
Secretary to the FAC: Ms. Ruth Kinehan

Decision

Having considered all of the information submitted with the application, the processing of the application by the DAFM, the written grounds of appeal, and information provided at the Oral Hearing, the Forestry Appeals Committee (FAC) decided to vary the Licence in this case to include the following conditions on the licence:

No Sitka Spruce shall be planted forward of the mature hedgerow on the site i.e. between the hedgerow and the public road.

The area of broadleaves to be planted on the lower portion of the site shall be of light crowned deciduous native broadleaf species.

In coming to its decision, The Forestry Appeals Committee considered all of the information submitted with the application, the processing of the application by the DAFM including its screening under the Habitats Directive, the grounds of appeal and submissions, responses and observations received, including information provided at the Oral Hearing.

The proposal is for afforestation of 85% Sitka Spruce and 15% integrated mix of broadleaves. Ground preparation would involve mounding and the planting method would be angle notch. Granulated rock phosphate fertiliser would be applied.

The DAFM granted a Licence subject to conditions. The written grounds of appeal submitted by local residents include reference to safety and wellbeing of residents in terms of pedestrian and traffic safety and fire hazard, lack of transparency in the processing of the Licence application, the extent of forestry coverage in the area, impact on a water source on the site and the impact on wildlife. The appellants refer to the presence of a HSE Home and ESB lines on the site, argue that the road network is inadequate, and state that the applicants are non-residents.

At the Oral Hearing, the appellants stated that their main concern was that of fire hazard. Having regard to the nature and small scale of the proposed development, the existing pattern of development in the area and the distance to existing residential properties in the area, including the HSE home, and to the direction of prevailing winds, the FAC concluded that there would be a minimal



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risk to public safety from fire. In terms of traffic movements, these would be limited and mainly confined to the initial ground preparation and planting phase, and felling upon the maturing of the site. As such, this is not considered a reasonable ground for the cancelling of the licence. While power lines exist on the site these are incorporated into the design of the proposed afforestation. The FAC considered that the proposal would not impact negatively on wildlife. The fact that the applicants are stated to be non-resident is not a matter for consideration by the FAC.

In the written grounds of appeal the appellants referred to interference with a water source on the site, while at the Oral Hearing they referred to the hydrological connection to the River Moy SAC. There is conflicting information presented in regard to the screening assessment carried out by the DAFM under the Habitats Directive. The original screening assessment by the Inspector considered the River Moy SAC (Code: 002298) and concluded that the proposal would not have a significant effect on the site having regard to the sites qualifying interests, the nature of the proposed afforestation, the lack of significant watercourses within the project area and mandatory adherence to any safeguards within the project. It states that any safeguards within the project that are "above and beyond what is set out in published Forest Service Guidelines, requirements and procedures, and any specific measures that might otherwise be attached to any recommendation to 'Approve with conditions'" were excluded from consideration. However, in response to a request for Further Information, the DAFM stated that in carrying out the screening for appropriate assessment "it also took those same standards of good forest practice into its consideration as mitigation measures in terms of their 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".

Based on the information before it in this case, the FAC concluded that the proposed design does not include measures which are designed to avoid or reduce significant effects on the River Moy SAC. In coming to this conclusion, the FAC considered the nature, small scale and design of the proposal, the topography and resulting drainage on the site, existing vegetation on the site, the size of the connecting waterway (on the north western site boundary) and the separation distance between the site and the River Moy SAC, and the qualifying interests for the European site. The FAC also concluded that, having regard to the same considerations, there are no conditions attaching to the licence requiring measures to be taken to avoid or reduce significant effects on the River Moy SAC.

In the interests of the visual amenities of the area, the FAC considered that the licence should be varied to include the conditions noted above.

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.

Yours sincerely

Vincent Upton, On behalf of the Forestry Appeals Committee

