



**An Coiste um Achomhairc
Foraoiseachta
Forestry Appeals Committee**

Our ref: FAC281/2019 CN84231

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[REDACTED]

15th January 2020

Subject: Appeal in relation to forest road licence CN84231, Coolraheen North, Co. Kilkenny

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 CN84231. 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 CN84231 was granted by the Department of Agriculture, Food and Marine on 3rd October 2019.

Hearing

A hearing of appeal 281/2019 was conducted by the FAC on 11th December 2019 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

Department Representatives: Mr. Seppi Honna, Mr. Colin Gallagher

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Kilminchy Court,
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Secretary to the FAC: Ms. Ruth Kinehan

Decision

Having regard to the evidence before it and, in particular, the following considerations and reasoning, the FAC has decided to confirm the decision of the Minister regarding licence CN84231.

Prior to making this decision the FAC undertook a preliminary examination of this proposal in relation to environmental impact assessment and undertook an appropriate assessment screening of the possibility of significant effects on Natura 2000 sites. The determinations of this examination and assessment are summarised below and available on the public file.

The FAC carried out an examination of the information submitted with the application and supplementary information submitted to the FAC in the course of the appeal process, including the Oral Hearing. The proposed forest road (909 m) is sub-threshold for the purposes of EIA as it falls below 2,000 m. The land on which the road will be built is currently an existing agricultural track and conifer high forest, flat to moderately sloped and composed of mineral soil. An agricultural track lies along most of the proposed route and leads to an existing entrance to a public road. There is a small settlement adjacent to the existing entrance and set back from the public road. As the entrance involves material widening, planning permission was required and obtained from the local authority. The forest road proposal was referred to the local authority, which did not raise any objections in their response. The FAC noted that the site was field inspected by the DAFM District Inspector before approval was granted.

Having regard to the nature, scale, location and design of the proposed road, the nature and extent of existing forest roads in the area and to the characteristics of the surrounding environment including mature forests, the FAC concludes that the proposed forest road either by itself, or in combination with other projects and land uses in the area, would not give rise to any real likelihood of significant effects on the environment and that environmental impact assessment of the proposal is not required.

The boundary of the River Barrow and River Nore SAC (002162) lies some 50m of the forest road entrance but is separated by a public road, agricultural land and a farm house and associated buildings. During the Oral Hearing it was noted that, while Freshwater Pearl Mussel (*Margaritifera margaritifera* and *Margaritifera durrovensis*) is a qualifying interest for this SAC there are no recorded populations in this vicinity. Forest and plantation management & use (Code B02) use of fertilizers (forestry) (B05) are both classified as a medium risk in relation to threats and pressures inside and outside the SAC in the Natura 2000 data form¹. The site synopsis notes the presence of coniferous plantations and natural woodland inside the SAC but there is no reference to pressures

¹ www.npws.ie/sites/default/files/protected-sites/natura2000/NF002162.pdf



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stemming from this land use². The FAC noted that none of the habitats listed as qualifying interests of the SAC were present in or adjacent to the project and that the project area was considered unsuitable for the listed species as documented by the DAFM Inspector.

River Nore SPA (004233) lies some 12km from the proposal. There is no direct hydrological connection with this SPA but it is noted that felling licences have been granted to thin forests that lie between the road and tributaries that eventually enter the SPA, which were identified and considered by the FAC. Forestry and related activities are not identified as threats in the Natura 2000 data form³ or in the site synopsis⁴.

The FAC also considered Natura sites outside of 15km and concluded that no such site would be impacted because due to separation distance. In addition, other plans and projects in the area identified in the information made available to the FAC were not considered to be of a nature and scale that would, in combination with the project under appeal, give rise to the possibility of significant effects on any European site. The FAC considered that none of the conditions attached to the licence require measures which are designed to mitigate effects on a European site, in this instance. The FAC, therefore, concludes that this proposed forest road, either individually or in combination with other projects in the area, would not undermine the conservation objectives or adversely affect the integrity of any Natura 2000 sites.

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.

Yours sincerely

Vincent Upton, on behalf of the Forestry Appeals Committee

² www.npws.ie/sites/default/files/protected-sites/synopsis/SY002162.pdf

³ www.npws.ie/sites/default/files/protected-sites/natura2000/NF004233.pdf

⁴ www.npws.ie/sites/default/files/protected-sites/synopsis/SY004233.pdf

