



30 June 2020

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Our ref: FAC 109/2019

Subject: Appeal in relation to afforestation licence CN82005

Dear [Redacted]

I refer to the appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine in respect of afforestation licence CN82005.

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

Afforestation licence CN82005 was granted by the Department on 05 April 2019.

Hearing

A hearing of appeal 109/2019 was conducted by the FAC on 23 June 2020

FAC Members:

Mr Des Johnson (Chairperson), Mr Vincent Upton, Mr Jim Byrne and Mr Pat Coman

Decision

Having considered all of the information before it, the FAC has decided to cancel the decision to issue licence CN82005 for the reasons set out below:

The proposal under licence CN82005 at Dergvone, Co Leitrim, comprises 3.17 ha of afforestation, involving a change of land use to forestry, planting is to comprise 85% Sitka Spruce and 15% additional broadleaves, the proposal includes 120m of stock fencing. The site is enclosed upland in grass, grass/rush, bracken-brier and is relatively steep sloped with elevations of c. 200m to 260m. Site preparation is stated to be by mounding with woody weed removal, there is to be slit planting, with zero fertiliser use and herbicide use

is within years 1 and 2. The application Bio-Map shows an aquatic zone along eastern edges and all along southern edges with broadleaves to border the full aquatic zone outside of a 10m setback/buffer. The watercourses are tributaries to the Owenayle river which flows to Lough Allen, and the proposal site is in the Upper Shannon catchment.

There were referrals by DAFM to An Taisce and Leitrim County Council. An Taisce replied regards appropriate assessment screening, that the project is within 0.5km of Boleybrack Mountain SAC and that the project has the potential to adversely impact on the Hen Harrier which the NPWS include for in the site synopsis as 'may use for foraging'. Leitrim County Council replied regards public roads and that *"the lands are identified as Low Capacity/High Sensitivity in terms of the Landscape Capacity to Accommodate Forestry. The Planning Authority expresses its objection to the planting of the lands within this Low Capacity designation, as the aforementioned Landscape Capacity designation envisions, in part, that new afforestation will be strongly discouraged and that the existing area under forestry will be reduced"*.

The licence CN82005 was issued with the following additional Environmental & Silvicultural Conditions: *Adhere to Forest Service Landscape Guidelines, - Consult with L.C.C. Dist Eng prior to commencement of work as requested by Leitrim County Council, - Adhere to forestry & water quality guidelines, - All Guidelines to apply*

There is a single appeal and the grounds of appeal include that the Forest Inspector's pre-approval report states Leitrim County Council made no objection, whereas this is not the case. The appellants quoted extract from the County Council response. The appeal grounds state that An Taisce also objected to the application. The appellants included that *the site is within a NPWS referral zone and the application was not referred to them, that Dergvone townland (1517.46acres) is part of the Boleybrack Mountain SAC (site code 2032) which has Annex I Habitat types and Annex II species type which are protected under EU Council Directive 92/43/EEC. As these lands are known feeding/hunting grounds for the critically endangered Hen Harrier, how could this licence be granted without referral to the NPWS. The cumulative effect of afforestation in this area/ region warrants an EIA as an Appropriate Assessment screening is totally inadequate for this application. The negative impact on the water course and aquatic life as a result of mounding, herbicides and fertiliser will be detrimental to an already fragile aquatic system as a result of the large area already under forestry (Sitka Spruce) and which is also part of the River Shannon catchment area. These lands would be seen as High Nature Value farmland and the afforestation of these lands would see the destruction of sensitive habitats and biodiversity at a time when the EU is trying to protect HNV farming practices. This development should it proceed will facilitate the further decline the local farming population and the social and economic future of the wider community.*

In the DAFM reply on the appeal the inspector stated as follows; *"I carried out a desk audit and field inspection under the above assessment and am satisfied all criteria are adhered to"*.

The FAC requested additional information from DAFM, the response included that *"When the Forest Service of the Department of Agriculture, Food and the Marine, first assessed the likely effects of this proposed development on the local receiving environment it did take into consideration standards of good*

forest practice, and more specifically when applying the Appropriate Assessment Procedure then in use to carry out an Appropriate Assessment Stage 1 screening in respect of the proposed development, 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. Therefore, if the application was screened again today, under the revised Appropriate Assessment Procedure currently in use, it would not be screened out".

The FAC considers from the aforementioned that mitigation was taken into account at the screening stage by DAFM, and in addition to the conditions there is significant length of aquatic buffer of 10m width and adjacent riparian areas included in the application. The screening for Appropriate Assessment by DAFM makes no reference to specific plans or projects that were considered in-combination with the proposal. The FAC notes there are six European Sites within 15 km of the project site; Boleybrack Mountain SAC (c. 636m), Lough Gill SAC (c. 7.9 km), Cuilcagh-Anierin Uplands SAC (c 8.0 km), Corratirrim SAC (c. 12.5 km) and Arroo Mountain SAC (c. 14.5 km) and there is significant forestry and forestry activity in the area.

The FAC considers there is insufficient information provided on which to undertake an Appropriate Assessment Screening as required under Article 6(3) of the Habitats Directive 92/43/EEC, especially with regards other plans and projects for in combination assessment.

In addition the FAC is satisfied the concerns raised by Leitrim County Council and highlighted by the appellants were not addressed in the issuing of licence and considers the cumulative impact of the proposed afforestation on the landscape and the receiving environment cannot be adequately addressed on the basis of the information to hand.

Yours Sincerely



Pat Coman, on behalf of the Forestry Appeals Committee

