



23 July 2020

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Subject: Appeal 360/2019 regarding licence LS12 FL0022

Dear [REDACTED]

I refer to the 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

Felling licence LS12 FL0022 was issued by the Department of Agriculture, Food and the Marine (DAFM) on 31 October 2019.

Hearing

A hearing of appeal 360/2019 was held by the FAC on 22 July 2020.

FAC Members: Mr. Des Johnson (Chairperson), Mr. Jim Gallagher, Mr. Pat Coman, Mr. Vincent Upton

Decision

The Forestry Appeals Committee (FAC) considered all of the documentation on the file, including application details, processing of the application by DAFM, the grounds of appeal, and all submissions before deciding to confirm the decision to grant this licence (Reference LS12-FL0022).

The proposal is for the clear-felling of a stated site area of 4.85ha in 2020 at Grange Upper, Co Laois. Restocking would be with 100% Douglas Fir described as Conifer Forest for Wood Production. Soils are stated to be 7.8% grey brown podzolics, brown earths and 92.2% renzines, lithosols.

The application was referred to Laois County Council but there is no response on the file.

The DAFM issued the Licence on 31st October 2019 subject to standard conditions plus a number of archaeological conditions. The mapped archaeological sites are adjacent to, but not on the project site.

There is a single appeal against the decision to grant the Licence. The grounds contend that, based on the information supplied it is not possible to make a decision in compliance with the requirements of the Habitats and EIA Directives. No proper assessment was carried out and no assessment of cumulative effects. Reference is made to a number of Court judgments and, in particular, the Holohan and Finlay Geoghegan cases. It is contended that if mud was to enter the lakes it could have an effect on the SAC/SPA even in excess of 15km from the site.

In response, the DAFM stated that the correct procedures for screening were used at the time (September 2019). The proposal would not give rise to the possibility of a significant effect on any Natura 2000 site. There are no lakes near or adjacent; the nearest lake (not hydrologically connected) is 4.2km to the north.

The DAFM submitted a further Appropriate Assessment screening form, signed 12th May 2020 and this was circulated to the parties. This identifies 4 Natura 2000 sites within a radius of 15km, lists their qualifying interests and references their conservation objectives. These are as follows:

1. R Barrow & R Nore SAC
2. Ballyprior Grassland SAC
3. Mountmellick SAC
4. Slieve Bloom SPA

With regard to the River Barrow & River Nore SAC and Ballyprior Grassland SAC, the DAFM conclude that there is no possibility of a significant effect arising from the proposed development due to the absence on hydrological connectivity and lack of pathway. The Mountmellick SAC is within a separate waterbody with no upstream connectivity and no pathway. There is no possibility of any significant effects on the Slieve Bloom SPA due to separation distance.

In processing the appeal, the FAC carried out a screening for Appropriate Assessment and examination of environmental effects arising from the proposed development. The screening and examination are contained in the public file. The FAC concluded that there is no possibility of significant effects on any Natura 2000 site arising from the proposed development alone, or in-combination with other projects or land uses in the area.

The FAC concluded that felling and reforestation does not fall within a class of development to which the EIA Directive applies, and the proposed operation does not include works which, by themselves, would be a class of development to which the EIA Directive applies. Considered cumulatively with other projects and lands uses, both forestry and non-forestry related, the proposed development would not be likely to have significant effects on the environment.

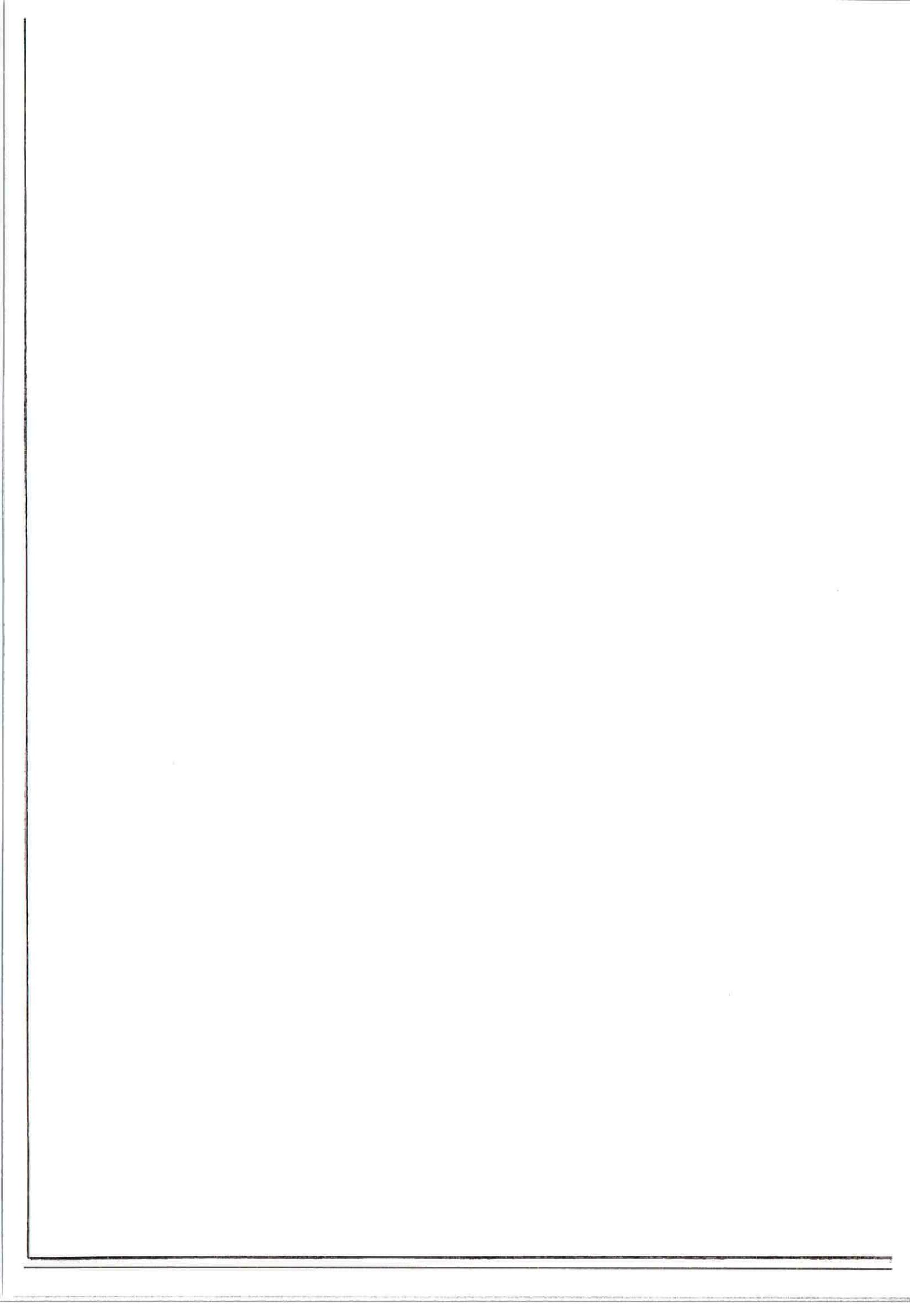
The FAC concluded that the proposal would not result in a significant impact on any lakes or water quality generally.

In deciding to confirm the decision to grant the Licence the FAC considered that the proposed development would be consistent with Government Policy and Good Forestry Practice.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Pat Coman', written over a horizontal line.

Pat Coman on behalf of the Forestry Appeals Committee



Screening and examination for licence LS12 FL0022 (Appeal 360/19)

Proposal and location

The proposal is for the clearfelling of 4.85ha in the year 2020 of Douglas fir, Japanese larch and some broadleaves planted in 1971 at Grange Upper, Co. Laois. Restocking would be with 100% Douglas Fir with a stated objective of Conifer Forest Wood Production. The project site is approximately 3km west of Stradbally and 6km east of Portlaoise, and forms part of a larger block of maturing forestry that adjoins a public road to the north. Soils are stated to be 7.8% grey brown podzolics, brown earths and 92.2% rezzines, lithosols. The wider area is rural and agricultural in character with a dispersed settlement pattern. Agricultural fields are enclosed and a mixture of pasture and tillage. There are no aquatic zones evident on the site and no rivers or streams on, adjoining or adjacent to the site

Appropriate Assessment Screening

The FAC concluded that the proposed felling would not be directly connected with, or necessary to the management of any Natura 2000 site.

Having regard to the nature and limited scale of the proposal and the characteristics of the receiving environment, the FAC considered that all Natura 2000 sites within a 15km radius should be included in a screening for Appropriate Assessment and that it could be concluded at the outset that there would be no likelihood of significant effects on designated sites outside of this radius. The FAC carried out a screening assessment on Natura 2000 sites within a 15km radius of the project site without considering any measures that could be considered as mitigation measures designed to avoid or reduce impacts on any Natura 2000 site. There are 4 Natura 2000 sites within 15km radius and these, together with their separation distances and qualifying interests are as follows:

Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
002162	River Barrow and River Nore SAC	3871.53	Habitats Estuaries Mudflats and sandflats not covered by seawater at low tide Reefs Salicornia and other annuals colonising mud and sand Atlantic salt meadows Mediterranean salt meadows Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation European dry heaths Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels Petrifying springs with tufa formation* Old sessile oak woods with Ilex and Blechnum in the British Isles

			Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> * Species Freshwater Pearl Mussel Desmoulin's Whorl Snail Otter White-clawed Crayfish Salmon Killarney Fern Twaite Shad Nore Pearl Mussel Sea Lamprey Brook Lamprey River Lamprey
002256	Ballyprior Grassland SAC	5805.43	Habitats Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites)
002141	Mountmellick SAC	12472.38	Species Desmoulin's Whorl Snail
004160	Slieve Bloom Mountains SPA	14814.62	Birds Hen Harrier

The conservation objectives for the SACs seek to maintain or restore the favourable conservation condition of the listed habitats and species and the conservation objective for Slieve Bloom Mountains SPA is to maintain or restore the favourable conservation condition of the bird species listed as qualifying interests for the site.

There are no aquatic zones on the project site. The nearest rivers/streams are the Stradbally River approximately 3.8km direct distance to the east and the Rathevan River approximately 3.8km direct distance to the west. Both rivers are in the Barrow sub-catchment. There is no hydrological connectivity between the project site and any stream/river. The FAC considered the nature and scale of the proposal, the absence of hydrological connectivity and the separation distances involved, and concluded that there was no possibility of significant effects on any of the SACs listed arising, having regard to the conservation objectives for those designated sites. The Slieve Bloom Mountains SPA is 14814m separated from the proposed site. The project site does not provide any habitat suitable for the hen harrier. Having considered the nature and scale of the proposal, the absence of suitable habitat on the project site and to the separation distance to the SPA, the FAC concluded that the proposed development would not give rise to the possibility of any significant effect on the Slieve Bloom Mountains SPA, having regard to the qualifying interest for that designated site.

The FAC considered the conditions attached to the Licence and concluded that none of the conditions required measures designed to avoid or reduce the effects on any Natura 2000 site.

The FAC considered the issue of in-combination effects. The proposed site is part of a larger area of forestry. The wider area is rural and agricultural in character and with

a dispersed settlement pattern. Non forestry projects in the area include one-off dwellings and agricultural type buildings. There are other small blocks of maturing forestry in the wider area but these are not hydrologically connected to the project site and do not offer suitable habitat for the hen harrier. Having regard to the nature and scale of the proposal, the absence of hydrological connectivity to any Natura 2000 sites and separation distances, the FAC concluded that the proposed development alone, or in-combination with other projects or land uses in the area, would not give rise to the possibility of significant effects on any Natura 2000 site.

Examination of environmental impacts

Felling and replanting does not fall within a class of development to which the EIA Directive applies and the proposed operation does not include works which, by themselves, would be of a class of development to which the EIA Directive applies. As such, there is no requirement for an examination of the proposal in the context of the provisions of the EIA Directive.

In terms of environmental impacts, the proposed site forms part of a larger forest at this location which is managed for timber production. There are other areas of maturing forestry in the wider area but these are dispersed and not hydrologically connected to the project site. The receiving environment is characterised as a rural agricultural area with dispersed settlement pattern. The proposed development will give rise to noise and general disturbance during operations but this will be short-term, intermittent and not significant. It is likely that there will be increased activity on local roads but this would be short-term and not significant. There will be localised visual impact due to the felling of trees and this will change over time as reforestation takes hold and matures. There would be no likelihood of significant impacts on any Natura 2000 site. Archaeological sites are identified in proximity to the project site but the proposed felling and reforestation would not have any significant effect on these. Proposed NHAs approximately 1.4km to the north of the project site include Kiltale Hill, Rock of Dunamais and Dunamais Woods; these are not hydrologically connected and the proposed felling and reforestation would have no possibility of significant effects on them. There is no hydrological connectivity to any watercourse or lake, and there would be no significant impact on water quality. Climate change effects would be imperceptible resulting from the felling and reforestation. Overall, the FAC concluded that the proposed felling and reforestation by itself or in combination with other projects and land uses in the area, would not be likely to have significant effects on the environment.

Des Johnson

On behalf of the Forestry Appeals Committee

22nd July 2020

