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13/3/2020

Our ref: FAC 406/2019

Subject: Appeal in relation to afforestation licence CN84150

Dear [REDACTED]

I refer to your appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine (DAFM) on licence CN84150.

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 CN84150 was granted by the DAFM on 12 November 2019.

#### Hearing

A hearing was conducted by the FAC on 10 March 2020 at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois.

#### In attendance at hearing:

FAC Members: Mr. Des Johnson (Chairperson), Mr. James Conway & Mr. Vincent Upton

#### Decision

Having regard to the evidence before it and, in particular, the considerations set out below, the FAC has decided to confirm the decision of the Minister regarding licence CN84150:

- o The decision related to an afforestation licence for 0.42 hectares in Annaghoney, Co. Leitrim.
- o In its statement to the FAC dated 14 January 2020, DAFM stated:

*This application was field and desk assessed. The AA procedure was carried (sic) including an in-combination assessment of all forestry and non-forestry plans or projects in the vicinity of the site. This application is for native Alder & Birch (GPC8) and is 0.42 ha in size. There is no hydrological connection to any Natura site and the AA screening has outlined clearly why the project was screened out. There is an adjoining approval for the same applicant which ensures access to the public road.*

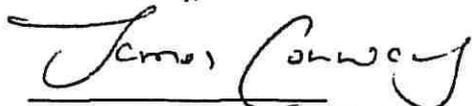
- o An Environmental Impact Assessment (EIA) is mandatory for initial afforestation which would involve an area of 50 hectares or more. The licence under appeal concerns 0.42 hectares for initial afforestation. Sub-threshold EIA considerations are set out at schedule 3 of the Forestry Regulations, 2017 (SI No 191 of 2017) and this proposed afforestation is sub-threshold for the purposes of EIA. Having regard to the nature (Alder and Silver Birch species under GPC8), scale (0.42 hectares), location and design of the proposed afforestation, the nature and extent of existing forestry in the area and to the characteristics of the surrounding environment, which is rural and agricultural in nature and with a sparse and dispersed settlement pattern, the FAC concluded that the proposed afforestation 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 the submission of an environmental impact assessment report of the proposal is not required. The FAC are satisfied that the requirements of the EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU) have been met.
- o From the evidence available to the FAC, including the appropriate assessment screening undertaken by DAFM;
  - o the project site is predominantly flat to moderately sloped and soil type is described as predominantly podzols in nature,
  - o there are no EPA identified watercourses on the site,
  - o Ballykenny-Fisherstown Bog SPA, Clooneen Bog SAC and Lough Forbes Complex SAC are at distances of circa 10.0 km with no hydrological connectivity from the project site, and
  - o Ballykenny-Fisherstown Bog SPA is at circa 10.5 km and its qualifying interest is Greenland White-fronted Goose.

The FAC is satisfied that no possibility of a significant effect on a European Site would arise when considered against the works licenced, separation distance and lack of hydro-connection to such sites, and the qualifying interests of the nearest SAC and SPA sites mentioned above. The FAC concludes therefore that this project on its own can have no possible effect on the European sites set out for.

In addition, the FAC has considered all likely sources of effects arising from the project together with other sources of effects in the existing environment and any other effects likely to arise from proposed or permitted plans or projects. Based on the evidence, including non-forestry and forestry projects identified in the DAFM's appropriate assessment screening, while the project is adjacent to another afforestation project, the distance from any European site and the lack of hydrological connectivity from a European site, the FAC determined that no possible effect arises, that the project CN84150 on its own or in-combination with other plans or projects will not give rise to any possible impact on a European site and an appropriate assessment is not required.

- o A condition of the licence at appeal is compliance with Departmental guidelines and requirements for Landscape, Water Quality, Harvesting, Biodiversity and Archaeology. A further condition is *'this licence is issued subject to the terms and conditions of the Forestry Standards and Procedures Manual'*. Furthermore, the application of fertilisers and herbicides is subject to Forest Protection Guidelines which exclude application within aquatic buffer zones. The Department's Guidelines in their *'Forestry Standards Manual; November 2015'* and their other mandatory Guidelines have been developed and informed by relevant research field trials over many years, including HYDROFOR. As stated on the licence, the proposed afforestation will not employ herbicides or fertilisers. The FAC does not consider that the planting of native broadleaf trees over an area of 0.42 ha could result in a significant negative effect on water and is of the opinion that this project will likely have a minor positive impact in this regard.
- o There are no recorded archaeological sites on the project site.
- o Evidence presented to the FAC, indicates that there is road access for the proposed development through an adjoining approval for the same applicant.
- o Landowners have the right to afforest their lands, once doing so within the law.
- o 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.
- o 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.

Yours sincerely,



James Conway, on behalf of the Forestry Appeals Committee

