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Our ref: FAC 026/2018

25 March 2020

Subject: Appeal in relation to afforestation licence CN80270

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 CN80270.

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 CN80270 was granted by the Department on 19 February 2018.

Hearing

The hearing of appeal 026/2018 on CN80270 was conducted by the FAC on 24 March 2020.

FAC Members: Mr Des Johnson (Chairperson), Mr Vincent Upton, Mr James Conway and Mr Pat Coman

Decision

Having regard to the evidence, written and oral, before it and the following considerations, the FAC has decided to confirm the decision of the Minister regarding licence CN80270:

The proposal is for afforestation on a site stated to be 6.98ha and 1100m fencing at Castlepoles, Co. Cavan. Trees would be 90% Sitka Spruce and 10% broadleaves. The soil type is stated to be mineral, and the site is exposed at an elevation of 80.0m to 100.0m. Ground preparation would include woody weed removal and herbicides would be applied in years 0-3. No drainage is proposed. 250kg granulated rock phosphate would be applied. The site is in a rural agricultural area and is bounded by a narrow public road with hedgerows to the south. To the south east there is an Irish Water installation, a couple of large storage type structures and two telecommunication masts.

The DAFM granted a licence subject to 13 conditions relating to standard matters. The decision was appealed on the following grounds:

- Forestry Division failed to make available the Appropriate Assessment Screening
- The Appropriate Assessment Screening is fundamentally flawed because of the Statement Options given

- The Appropriate Assessment Screening is not in compliance with Kelly v ABP where the possibility of a significant effect generates the need for Appropriate Assessment
- There was no Appropriate Assessment Screening of in-combination effects.

In response the DAFM stated that the Forestry Inspector evaluated this project using the appropriate GIS datasets, the proposal is 6.6km southwest of the Lough Oughter & Associated Loughs SAC and closely overlapping SPA and there is no hydrological connectivity and that the possibility for a significant effect on any Natura 2000 site did not arise.

In response to a request for Further Information by the FAC, the DAFM stated that the Stage 1 screening did not take account of mitigation measures as they were not directly or indirectly relevant in terms of their potential to avoid or reduce any potential significant effects on the integrity of any Natura 2000 sites, the proposed development was not capable of giving rise to a significant effect because of the absence of any aquatic zone within or adjoining the project area, distance and the qualifying interests of Natura 2000 sites, and in-combination effects were considered following reference to Council planning website, ABP and EPA websites, Cavan CDP and iForis MapViewer.

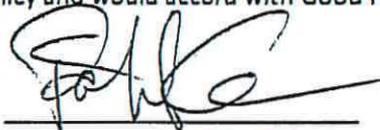
Prior to making its decision, the FAC carried out an examination in respect of EIA and a Stage 1 screening in accordance with the requirements of the Habitats Directive; the examination and screening assessment are attached to the public file.

In respect of EIA the FAC concluded that the proposed project (6.98ha) is clearly sub-threshold for the purposes of the Directive and, as such, does not require mandatory EIA. The FAC further concluded that there is no real likelihood of significant effects on the environment arising from the proposed afforestation either by itself or cumulatively with other projects and land uses in the area, and that the need for EIA can be excluded without the requirement for a formal screening.

In respect of the screening assessment for appropriate assessment, the FAC noted that there are two Natura 2000 sites within a 15km radius of the proposed site (Lough Oughter & Associated Loughs SAC and Lough Oughter SPA). Having regard to the nature and scale of the proposal, the nature and scale of the other projects listed (both forestry related and others), the rural agricultural character of the area with a dispersed settlement pattern, the separation distance to other forestry projects listed and the absence of hydrological connectivity to Natura 2000 sites, the FAC concluded that the proposed afforestation by itself, or in combination with other projects and land uses in the area would have no possible effect on any Natura 2000 site.

In deciding to confirm the licence, the FAC considered that the proposal would be consistent with Government Policy and would accord with Good Forestry Practice.

Yours sincerely



Pat Coman, on behalf of the Forestry Appeals Committee