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29 April 2020

**Subject: Appeal FAC086/2019 - CN83489 – Afforestation Licence, Rooskey, Sligo**

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**

Afforestation Licence for 2.07 hectares was approved by the Department of Agriculture, Food and the Marine on 17<sup>th</sup> April 2019.

### **Hearing**

A hearing was conducted by the FAC on the 23<sup>rd</sup> April 2020.

### **In attendance at the hearing:**

FAC Members: Mr. Des Johnson (Chairperson), Mr. Pat Coman, Ms. Mary Lawlor  
& Mr Vincent Upton

## Decision

Having regard to the written evidence before it and, in particular, the considerations and reasoning set out below, the FAC has decided to cancel the decision of the Minister regarding licence CN83489.

The decision related to an afforestation licence for 2.07 hectares at Rooskey, Co. Sligo comprising of Sitka Spruce and Additional Broadleaves. The licence was issued with the following conditions:

- Adhere to Environmental Requirements for Afforestation.
- All guidelines to apply

The grounds of appeal outlined that the appropriate assessment undertaken by the DAFM in granting the licence was flawed in law.

In its statement to the FAC dated 5<sup>th</sup> June 2019 DAFM stated:-

*"The Department is satisfied that all criteria as outlined in the following standards and procedures have been adhered to in making a decision on the application.*

*The application area is 405m distant from the nearest aquatic zone, connected by well vegetated agricultural drains. From Ordnance Survey data the slope to the aquatic zone in the area can be measured as 1 in 55 (1.8%), an approximate 6m drop over a distance of 333m. The slope across the site is approximately 1 in 132 (0.75%). The site is on a heavy gley soil with a very small area (<0.2ha) of peat on the western extreme. The proposed application of 250kg/ha GRP will net 475kg over the entire site (250x2.070.915[8.5% unplanted area or biodiversity]). Ground cultivation by mounding and slit planting with manual application of fertiliser.*

*Considering the proposal as specified, the site attributes, the detailed site inspection conducted on the 09/04/2019, the conditions of approval, the FS suite of measures applicable over the full rotation, the physical separation from the aquatic zone, the further physical separation from the SAC, this application will have nil effect on the integrity of the Natura site River Moy SAC 002298".*

The proposed project has 10 Natura 2000 sites listed within 15kms the closest being the River Moy SAC which is at c. 1.2 kms, the next closest being Cloonakillina Lough SAC at c. 2.7kms. There is a watercourse (River Drumbaun) to the north of the afforestation site but with no direct connectivity to it.

The FAC requested additional information from the DAFM regarding mitigation measures and plans or projects that they had taken into account in their screening of this application. In the

response provided, the DAFM stated that mitigation measures designed to avoid or reduce impacts on Natura 2000 sites had been considered and stated that if the project was screened under the revised Appropriate Assessment procedures, they would not screen out this proposal. The DAFM did not provide any further information regarding other plans and projects in the area as requested.

Based on the information before it, including the DAFM submission in response to the Further Information request, the FAC considered that the requirements of the Habitats Directive in respect of screening for Appropriate Assessment were not satisfactorily met prior to the granting of the licence. In particular, the FAC noted that mitigation measures were incorrectly taken into account at the screening stage. Furthermore, no information on other plans or projects was provided to the FAC.

For these reasons and in these specific circumstances, the FAC has decided to cancel the decision regarding CN83489.

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

