



[REDACTED]

14th May 2020

Subject: Appeals FAC133/2019, FAC134/2019, FAC135/2019 against afforestation licence CN80398

Dear [REDACTED]

I refer to the appeals 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 CN80398 at Rathoran, Co. Kerry was issued by the Department of Agriculture, Food and the Marine on 2nd May 2019.

Hearing

A hearing of appeals FAC133/2019, FAC134/2019, FAC135/2019 was held by the FAC on 28th April 2020
FAC Members: Mr. Des Johnson (Chairperson), Mr. Jim Byrne, Mr. Pat Coman, Mr. Vincent Upton

Decision

Having regard to the evidence before it and the following considerations, the FAC has decided to cancel the decision of the Minister regarding licence CN80398.

The decision pertains to an afforestation licence for 10.58 ha at Rathoran, Co. Kerry. It is proposed to plant Sitka spruce and broadleaves with 1.1 ha of the area remaining unplanted as setbacks. Site preparation is proposed by mounding and woody weed removal. Fertilisation with 250kg/ha granulated rock phosphate is proposed in plots 2 and 3 only with herbicide control in yrs 0-3. The site is described as enclosed agricultural land with a mineral, peat soil type and grass rush, bracken/briar, mollinia/calluna, furze, eriophorum/heather vegetation type at 90-100 m elevation. The area is described as being moderately landscape sensitive. There is an ESB line running through part of the site and setbacks from the public road, dwellings, historic buildings and aquatic areas are included. A land classification inventory was carried out on part of the site and provided. The proposal was referred to An Taisce, Kerry Co Co, NPWS and responses were provided. The proposal was referred to a DAFM

Before making its decision the DAFM did undertake an appropriate assessment screening of the proposal and deemed there not to be a likelihood of a significant effect on a European site. However, the FAC does not consider the screening undertaken to be sufficient and, in particular, notes that the possible suitability of the site for the Hen Harrier does not appear to be sufficiently considered given the scale of the proposal and its location. The FAC does not consider that it has sufficient information available to it to consider possible impacts of the proposal on European sites, in particular the Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA and Lower River Shannon SAC. In this situation, the FAC has decided to adopt the precautionary principle and to cancel the decision.

Before making its decision, the FAC considered all of the information submitted with the application, the processing of the application by the DAFM including its screening for Appropriate Assessment, the grounds of appeal and any submissions and observations received.

Yours sincerely,

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

Pat Coman on behalf of the Forestry Appeals Committee