



15 May 2020

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**Subject: Appeal FAC368/2019 against licence CN84361**

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**

Licence CN84361 for afforestation of 5.52 ha at Carnyara, Co. Sligo was issued by the Department of Agriculture, Food and the Marine on 7th November 2019.

#### **Hearing**

A hearing of appeal FAC368/2019 was held by the FAC on 12<sup>th</sup> May 2020.

FAC Members: Mr. Des Johnson (Chairperson), Mr. Jim Byrne, 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 the Department of Agriculture, Food and the Marine (DAFM) and the grounds of appeal, before deciding to confirm the decision regarding CN84361.

The proposal is for afforestation on a stated site area of 5.52ha, on 2 plots at Carnyara, Co. Sligo. Planting is to be 4.55ha Sitka Spruce and 0.8ha Broadleaves. Soil type is stated to be mineral peat and the site elevation is 50.0m – 60.0m. Woody weed removal and mounding is proposed. Archaeological features are identified on the site. The receiving landscape is rural and agricultural in character with a dispersed settlement pattern. There is existing forestry to the west and south-west. There appears to be a historic farmyard adjacent to the southern boundary of the site. The Licence was approved and issued on 7th November 2019. Specific archaeological conditions are attached.

There is a single appeal. The grounds contend that, based on the information supplied, it was not possible to make a decision in compliance with Habitats and EIA Directives having regard to CJEU

judgments. Reference is made to the Finlay-Geoghan judgment. It is argued that there was no assessment of cumulative impacts.

In response, the DAFM state that the screening assessment for appropriate assessment included an in-combination assessment of all forest and non-forest projects in the general area. There is no hydrological connection to any Natura 2000 site. The FAC referred to the Pre-approval carried out by the DAFM Inspector and notes that this refers to 12 SACs and 1 SPA, all within a 15km radius of the proposed site. All of the sites are listed and coded, together with their qualifying interests, a list of matters considered, including other projects both forestry and non-forestry, and a conclusion with regard to the likelihood of significant effects resulting from the proposed development. In brief, the screening concludes that the proposed development by itself, or in combination would not have any significant effect on any of the following sites due to the absence of aquatic zones or significant watercourses on the proposed site:

- River Moy (1802m)
- Turloughmore (Sligo) SAC (3292m)
- Templehouse & Cloonacleigha Loughs SAC (3654m)
- Ox Mountains Bog SAC (4601m)
- Unshin River SAC (5466m)
- Dooncastle Turlough SAC (8310m)
- Knockalongy & Knockachree Cliffs SAC (10329m)
- Cloonakillina Lough SAC (11155m)
- Lough Nabrickkeagh Bog SAC (11329m)
- Flughany Bog SAC (11495m)
- Lough Hoe Bog SAC (13606m)
- Ballysadare Bay SPA (14317m)
- Ballysadare Bay SAC (14405m)

The FAC notes the separation distances between the proposed site and the listed Natura 2000 sites and considers that this factor would reinforce the conclusion reached in the screening assessment. The FAC also notes that no measures designed to avoid or reduce effects on any Natura 2000 site were taken into consideration in the screening carried out by the DAFM. The FAC is satisfied that the screening assessment carried out is in accordance with the provisions of the Habitats Directive in respect of Stage 1 screening for appropriate assessment.

The proposed afforestation is significantly sub-threshold for the purposes of the EIA Directive and the associated Irish Regulations. The FAC noted that the site is not in a prime scenic area and has no High Amenity designation. It is not acid sensitive but is in an area sensitive for fisheries. It is not within any NHA or pNHA or within 3km upstream of any such site. The site is not within any freshwater pearl mussel zone or catchment. The percentage forestry currently in the underlying waterbody is 7.78. The site is not likely to require more than 1 application of fertiliser. Having regard to the nature and limited scale of the proposal, the characteristics of the site and the surrounding receiving environment which is mainly rural and agricultural in character with a dispersed settlement pattern, the absence of a

likelihood of significant effects on biodiversity, and details of other projects, both forestry related and non-forestry, the FAC concludes that, following a preliminary examination, the proposed development by itself, or in combination with other projects and land uses, would not be likely to have significant effects on the environment.

In confirming the decision to approve the licence, the FAC considered that the proposed development would be in accordance with Government policy and Good Forestry Practice.

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

