



An Coiste um Achomhairc

Foraoiseachta

Forestry Appeals Committee

28 May 2020



Our ref: FAC 220/2019

Subject: Appeal in relation to afforestation licence CN83306

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 CN83306.

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 CN83306 was granted by the Department on 26 August 2019.

Hearing

A hearing of appeal 220/2019 was conducted by the FAC on 20 May 2020.

FAC Members: Mr Des Johnson (Chairperson), Mr Vincent Upton, Mr Jim Byrne and Mr Pat Coman

Decision

The Forestry Appeals Committee (FAC) considered all of the documentation on the file, including application details, processing of the application by DAFM and the grounds of appeal, and carried out a screening in accordance with the provisions of the Habitats Directive and an examination in respect of environmental impact assessment before deciding to confirm the decision to approve the licence (Reference CN 83306).

The proposal is for afforestation on a stated site area of 10.33ha (3 plots) (original proposal for 4 plots but 1 plot 701 excluded) and includes 1400m fencing at Keebagh, Cuilbeg, Co. Mayo. The site has mineral soil type and an elevation of between 70.0m and 75.0m. Ground cover is grass, grass/rush. No additional drainage is proposed while there are existing agricultural drains and the lands are not acid sensitive. There would be angle notch planting and application of 250kg granulated rock phosphate. The plots comprise agricultural fields and there is a stream/river along

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the south eastern boundary of the plots flowing in a westerly direction. The site is in a rural agricultural area with a dispersed settlement pattern. There is a second current application for afforestation by an applicant with the same name (CN 83503). This is a short distance to the north-east of the smaller plot with this application and relates to a stated area of 2.9ha. All of the lands the subject of the two licences are to the south of the N60. There are small areas of existing forestry to the north west (opposite side of a railway line) and to the south east (opposite side of the N60) in relatively close proximity to the proposed site. There are further small plantations in the wider area.

The DAFM issued a licence on 26th August 2019 subject to standard conditions.

There is a single appeal against the decision to approve the licence. The grounds contend that, based on the information supplied it was not possible to approve the licence in accordance with the requirements of the Habitats and EIA Directives. Reference is made to Court judgments. No proper assessment was carried out and there was no assessment of cumulative effects.

The FAC requested further information from the DAFM regarding other plans and projects in the area, and the procedures followed in screening the proposal under the provisions of the Habitats Directive and, in particular, if measures designed to avoid or reduce the effects of the proposed development on any Natura 2000 site had been taken into account. In response, the DAFM stated that it took standards of good forestry practice into consideration as measures designed to avoid or reduce effects on Natura 2000 sites and, if screened again, the proposal would not be screened out for appropriate assessment. No further information was submitted on other plans or projects.

Following an examination of the information on file and reference to the EPA public website and publicly available aerial photography, the FAC decided to carry out a screening in accordance with the provisions of the Habitats Directive and a preliminary examination in respect of EIA, before making its decision. The screening for appropriate assessment examined the 7 Natura 2000 sites within a 15km radius of the proposed site. There are two sites within 7.5km of the proposed site, namely Lough Corrib SAC (6001m) and the River Moy SAC (7452m). The Lough Corrib SAC includes the freshwater pearly mussel as a qualifying interest. The Carrowkeel Turlough SAC (13937m) and Coolcam Turlough SAC (14757m) both have priority habitats (turloughs) as qualifying interests. The Carrowbehy/Caher Bog SAC includes active raised bogs (priority habitat) as a qualifying interest.

The proposal is in the Corrib catchment and there is no downstream hydrological connectivity between the proposed site and any of the listed Natura 2000 sites. There are no Natura 2000 sites within the proposal sub-catchment and the River Moy SAC is in a different catchment. The stream adjoining the south eastern site boundary and flowing westwards does not connect with any of the listed Natura 2000 sites. There is a hydrological connection to Lough Carra SAC but at a distance of approximately 28km, and there is no likelihood of significant effects arising on this site. The proposal would take place on improved agricultural lands. The proposed site is underlain by limestone. There is no evidence of any subterranean linkage between the proposed site and any of the listed turloughs and the proposal is at considerable distance from both.

Having regard to the nature and scale of the proposed development, the pattern of development in the surrounding area, and the separation distances to the listed Natura 2000 sites and their qualifying interests, the FAC concluded that the proposed development alone, or in-combination



with other projects in the area, including a current application under reference CN 83503, would not give rise to the likelihood of significant effects on any Natura 2000 site.

In respect of a preliminary examination in respect of EIA, Directive (2011/92/EU), as amended by the 2014 EIA Directive (2014/52/EU), lists, in Annex II under 1(d), *initial afforestation and deforestation for the purposes of conversion to another type of land use*. The provisions of the Directive are transposed into Irish forestry legislation by SI No.191 of 2017, which sets a threshold for mandatory EIA as follows: *afforestation which would involve an area of 50ha or more*. The proposed project (10.33ha) is clearly sub-threshold for the purposes of the Directive and, as such, does not require mandatory EIA.

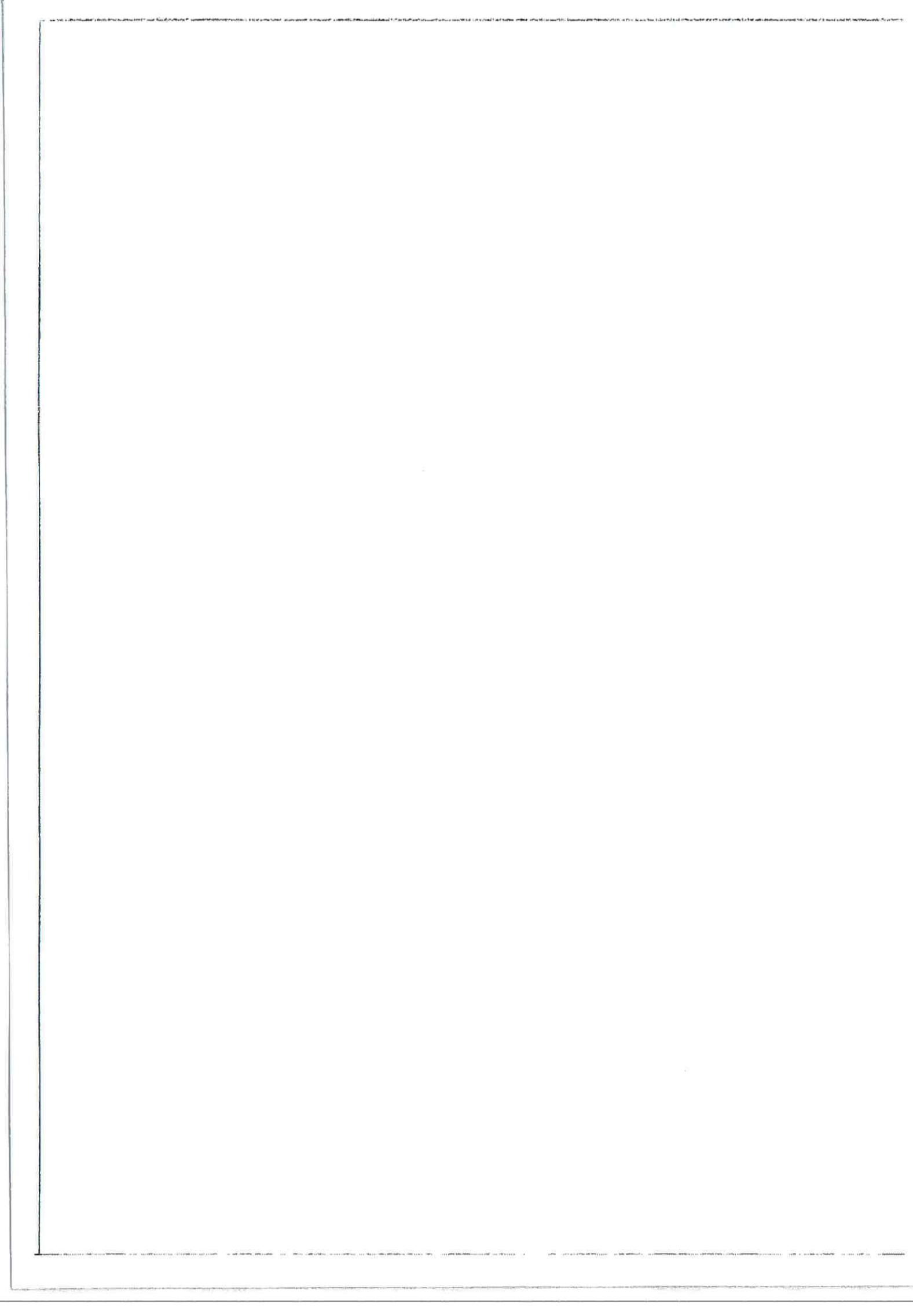
There is a second current application for afforestation by an applicant with the same name (CN 83503). This is a short distance to the north-east of the smaller plot with this application and relates to a stated area of 2.9ha. All of the lands the subject of the two licences are to the south of the N60. Taken together, the two licences relate to 13.23ha and this is significantly sub-threshold for the purposes of the EIA Directive. The FAC concludes that no issue arises in relation to 'project splitting' in this case given the nature and scale of the proposals which, combined, would not be likely to have significant effects on the environment.

Potential impacts arising from the proposed afforestation, combined with CN 83503, include visual impacts which will change as the forestry matures, minor disturbance during ground preparation and planting, and the permanent conversion of the land from agricultural use to forestry. Any impact on water quality from run-off from the sites would be short term and not likely to be significant. The maturing forest plots may have limited benefit in respect of carbon storage. There are no recorded archaeological monuments on the sites and no pNHA or NHA in the vicinity. There is one other afforestation licence issued in the townland but it is of very small scale. Having regard to the nature and scale of the proposed afforestation developments, the nature of the surrounding environment which is characterised by agricultural land use and a dispersed settlement pattern, to the absence of any specific amenity or environmental designations relating to the proposed sites, and to the absence of likely impact on any Natura 2000 site, the FAC concludes that there is no real likelihood of significant effects on the environment arising from the proposed afforestation developments, either individually or cumulatively with each other and with other projects and land uses in the area, and that the need for environmental impact assessment can be excluded without the requirement for a formal screening.

In confirming the decision to approve the licence, the FAC concluded that the proposed development accords with Government Policy and Good Forestry Practice.

Yours sincerely,

Pat Coman, on behalf of the Forestry Appeals Committee



CN 83306

Proposed Development and Location

The proposal is for afforestation on a stated site area of 10.33ha (3 plots) (original proposal for 4 plots but 1 plot 701 excluded) and includes 1400m fencing at Keebagh, Cuilbeg, Co. Mayo. The site has mineral soil type and an elevation of between 70.0m and 75.0m. Ground cover is grass, grass/rush. No additional drainage is proposed while there are existing agricultural drains and the lands are not acid sensitive. There would be angle notch planting and application of 250kg granulated rock phosphate. The plots comprise agricultural fields and there is a stream/river along the south eastern boundary of the plots flowing in a westerly direction. The site is in a rural agricultural area with a dispersed settlement pattern. There are small areas of existing forestry to the north west (opposite side of a railway line) and to the south east (opposite side of the N60) in relatively close proximity to the proposed site. There are further small plantations in the wider area.

There is a second current application for afforestation by an applicant with the same name (CN 83503). This is a short distance to the north-east of the smaller plot with this application and relates to a stated area of 2.9ha. All of the lands the subject of the two licences are to the south of the N60.

Appropriate Assessment Screening

There are 7 Natura 2000 sites within a 15km radius of the proposed development. These, together with their separation distances and qualifying interests are as follows:

Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
000297	Lough Corrib SAC	6001.64	Habitats 3110 Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) 3130 Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> 3140 Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. 3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) 6410 Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) 7110 Active raised bogs* 7120 Degraded raised bogs still capable of

Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
			<p>natural regeneration</p> <p>7150 Depressions on peat substrates of the Rhynchosporion</p> <p>7210 Calcareous fens with Cladium mariscus and species of the Caricion davallianae*</p> <p>7220 Petrifying springs with tufa formation (Cratoneurion)*</p> <p>7230 Alkaline fens</p> <p>8240 Limestone pavements*</p> <p>91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>91D0 Bog woodland*</p> <p>Species</p> <p>1096 Brook Lamprey (<i>Lampetra planeri</i>)</p> <p>1092 White-clawed Crayfish (<i>Austropotamobius pallipes</i>)</p> <p>1095 Sea Lamprey (<i>Petromyzon marinus</i>)</p> <p>1393 Slender Green Feather-moss (<i>Drepanocladus vernicosus</i>)</p> <p>1106 Salmon (<i>Salmo salar</i>)</p> <p>1303 Lesser Horseshoe Bat (<i>Rhinolophus hipposideros</i>)</p> <p>1355 Otter (<i>Lutra lutra</i>)</p> <p>1029 Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>)</p> <p>1833 Slender Naiad (<i>Najas flexilis</i>)</p>
002298	River Moy SAC	7452.03	<p>Habitats</p> <p>7110 Active raised bogs*</p> <p>7120 Degraded raised bogs still capable of natural regeneration</p> <p>7150 Depressions on peat substrates of the Rhynchosporion</p> <p>7230 Alkaline fens</p> <p>91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>91E0 Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)*</p> <p>Species</p> <p>1096 Brook Lamprey (<i>Lampetra planeri</i>)</p> <p>1106 Salmon (<i>Salmo salar</i>)</p> <p>1355 Otter (<i>Lutra lutra</i>)</p> <p>1092 White-clawed Crayfish (<i>Austropotamobius pallipes</i>)</p> <p>1095 Sea Lamprey (<i>Petromyzon marinus</i>)</p>
000607	Errit Lough SAC	13890.43	<p>Habitats</p> <p>3140 Hard oligo-mesotrophic waters with</p>

Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
			benthic vegetation of Chara spp.
000475	Carrowkeel Turlough SAC	13937.07	Habitats 3180 Turloughs*
001571	Urlaur Lakes SAC	14660.83	Habitats 3140 Hard oligo-mesotrophic waters with benthic vegetation of Chara spp.
000218	Coolcam Turlough SAC	14757.75	Habitats 3180 Turloughs*
000597	Carrowbehy/Caher Bog SAC	14965.81	Habitats 7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion

The proposed development is not necessary for the management of any Natura 2000 site. Having regard to the details provided with the application, the FAC concluded that there are no measures proposed designed to avoid or reduce the effects on any Natura 2000 site.

The distances shown are from the western plot. There are two sites within 7.5km of the proposed site, namely Lough Corrib SAC (6001m) and the River Moy SAC (7452m). The Lough Corrib SAC includes the freshwater pearl mussel as a qualifying interest. The Carrowkeel Turlough SAC (13937m) and Coolcam Turlough SAC (14757m) both have priority habitats (turloughs) as qualifying interests. The Carrowbehy/Caher Bog SAC includes active raised bogs (priority habitat) as a qualifying interest.

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Having regard to the nature and scale of the proposed development, the pattern of development in the surrounding area, and the separation distances to the listed Natura 2000 sites and their qualifying interests, the FAC concludes that the proposed development alone, or in-combination with other projects in the area, would not give rise to the likelihood of significant effects on any Natura 2000 site.

EIA Preliminary Examination

Directive (2011/92/EU), as amended by the 2014 EIA Directive (2014/52/EU), lists, in Annex II under 1(d), *initial afforestation and deforestation for the purposes of conversion to another type of land use*. The provisions of the Directive are transposed into Irish forestry legislation by SI No.191 of 2017, which sets a threshold for mandatory EIA as follows: *afforestation which would involve an area of 50ha or more*. The proposed project (10.33ha) is clearly sub-threshold for the purposes of the Directive and, as such, does not require mandatory EIA.

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Des Johnson

On behalf of the Forestry Appeals Committee

21st May 2020.