



**An Coiste um Achomhairc  
Foraolseachta**

**Forestry Appeals Committee**

**08 May 2020**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Our ref: FAC 060/2019**

**Subject: Appeal in relation to afforestation licence CN82377**

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 CN82377.

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 CN82377 was granted by the Department on 27 February 2019.

**Hearing**

A hearing of appeal 060/2019 was conducted by the FAC on 29 April 2020.

**FAC Members:**

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

**Decision**

Having considered all of the information before it, including the grounds of appeal, the Department of Agriculture and Food's application file and responses, the FAC has decided to cancel the decision of the Minister on CN82377 for the reasons set out below.

The proposal is for afforestation of 7.45 ha at Drumarigna, Co Leitrim with 1045m of stock fencing. The site is in two 2 plots and the planting area will be 7.37 ha comprising 85% Sitka Spruce and 15% additional broadleaves in an integrated mix with the remainder as biodiversity area. The site comprises agricultural land in grass/rush vegetation, drumlin type landscape and has an aquatic zone along the southern boundary to both plots.

**An Coiste um Achomhairc  
Foraolseachta  
Forestry Appeals Committee**

Kilminchy Court,  
Portlaoise,  
Co Laois  
R32 DWTS

Eon/Telephone 076 106 4418  
057 863 1900

There is one appeal before the committee and the grounds include policy matters over which the FAC has no remit, and matters relating to land transactions regards the site which have no bearing regards the FAC's remit in determining the appeal. The appeal includes that this site is within a heavily afforested area, is HNV land and is on a floodplain, also there are two streams flowing from the site to Adorn Lough and due to the presence of otter and trout spawning the application should have been given to Forest Service ecologist.

*In response to the appeal the Department of Agriculture Food and the Marine's inspector submitted as follows: The site was approved via desk assessment only. In light of the comments made in the appeal/objection regarding the potential presence of HNV farmland, I conducted a field inspection on the 03 April 2019. This land does not have any habitat that would indicate the presence of HNV farmland. The land is fully composed of grass/rush. No other issues that have been addressed are site related and thus the DAFM have no comment to make. These issues have already been received and addressed in previous appeals by the appellants. The site was assessed as per required standard operating procedures and all guidelines will have to be met by the landowner in order for them to qualify for grant payments. The site has been marked for inspection at 1" instalment.*

The FAC subsequently sought and received additional information from the Department of Agriculture Food and the Marine (DAFM) which included that "when the Forest Service of the Department of Agriculture, Food and the Marine, first assessed the likely effects of this proposed development on the local receiving environment it did take into consideration standards of good forest practice, and more specifically when applying the Appropriate Assessment Procedure then in use to carry out an Appropriate Assessment Stage 1 screening in respect of the proposed development, it also took those same standards of good forest practice into its consideration as mitigation measures in terms of their potential to avoid or reduce the likely effects of the proposed development on the integrity of any Natura 2000 sites in view of those sites' conservation objectives. Therefore, if the application was screened again today, under the revised Appropriate Assessment Procedure currently in use, it would not be screened out".

Based on the OPW mapping none of the proposal site is found highlighted as flood hazard area. The FAC is satisfied the site comprises improved agricultural land and is not within an area designated for conservation. The Cleendargan River runs along the southern boundaries and also through the eastern section along the edge of plot 339 and flows to Adorn Lough which is hydrologically connected to the Shannon-erne waterway at Ballinamore and in turn to the Lough Oughter and Associated Loughs SAC at some distance.

On the basis of the evidence before it, the FAC considered the project is not necessary for or connected with the management of any Natura 2000 site. There are two European sites within a 15 km radius of the proposal, the closest is the Cuilcagh Anerin Uplands SAC at 6.4 km, the other is Lough Oughter and Associated Loughs SAC at 13.7 km. In addition, Lough Oughter Complex SPA is at 16 km.

Based on the information on file, the FAC concludes that a Stage 1 screening, as required by the provisions of the Habitats Directive, was not satisfactorily carried out prior to the decision to grant



**An Coiste um Achomhairc  
Foraoiseachta**

**Forestry Appeals Committee**

the licence. In particular, the FAC considers that there was no assessment of relevant Natura 2000 sites or any assessment of in-combination effects with other plans and projects. Furthermore, the information submitted in response to the FAC's request for Further Information is inadequate and does not provide essential information that would allow for an appropriate assessment screening to be carried out in accordance with the provisions of the Habitats directive.

Yours sincerely,

**Pat Coman, on behalf of the Forestry Appeals Committee**

