



An Coiste um Achomhairc
Foraoiseachta

Forestry Appeals Committee

20 November 2020

[Redacted]
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Our ref: 027/2020

Subject: Appeal in relation to afforestation licence CN83532

Dear [Redacted]

I refer to your appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine (DAFM) in respect of licence CN83532.

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 CN83532 was granted by the DAFM on 10 January 2020.

Hearing

An oral hearing of appeal 027/2020 was conducted by the FAC on 17 November 2020.

Attendees:

FAC: Mr Des Johnson (Chairperson), Mr Luke Sweetman, & Mr Pat Coman

Secretary to the FAC: Mr Michael Ryan

DAFM representatives: Mr Ken Bucke & Ms Janet Farrell

Decision

The Forestry Appeals Committee (FAC) considered all of the documentation on the file, including application details, processing of the application by DAFM, the grounds of appeal, submissions made at the Oral Hearing and all other submissions, before deciding to affirm the decision to grant this licence (Reference CN 83532).

The application is for afforestation on a stated site area of 1.55ha. together with 230m sheep-stock fencing at Cor More and Cor Beg, Co. Offaly. Ground preparation is for ripping and mounding, and slit planting is proposed. No drainage is required, and Granulated Rock Phosphate fertiliser would be applied at a rate of 250kg/ha. Manual herbicide control is proposed in years 0-3 inclusive. Road access is provided. The predominant soil type is podzol and the slope is flat to moderate.

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The DAFM referred the application to An Taisce and Offaly County Council. The County Council responded stating that the lands are located in the outer zone of the Corbane Source, which is part of the Endrim Public Water Scheme. Risk of erosion should be mitigated against by observing prescribed buffer zones in the Forestry and Water Quality Guidelines. The importance of protecting water quality is emphasised. The proposed development should be carried out in accordance with Forestry & Water Quality, Forestry Biodiversity, Forest Harvesting and the Environment, and Forest and the Environment Guidelines.

The Inspector's Certification Pre-Approval notes that the site is not prone to flooding and is free of shell marl or highly calcareous soils. It is not acid sensitive or sensitive to fisheries. It is not in an area containing or adjoining an archaeological site and is not in a FWPM catchment. The area is Prime Scenic Amenity as per the County Development Plan. The application townland has 10.55% forest cover, up from 6.28% five years ago. There is 3.27% forest cover currently on the underlying the water body.

The licence issued on 10 January 2020 and is subject to standard conditions plus the requirement to retain broadleaves and hedgerows, and to concentrate the broadleaves at existing hedgerows and boundaries.

There is a single appeal against the decision to grant the licence. The grounds contend that no EIA screening was carried out and there is no visible sign of screening for Appropriate Assessment (AA). There is no information to indicate if the proposed development is in an SAC or SPA. Mitigation measures have been taken into account by the Inspector. Guidelines and procedures are, in fact, mitigation measures designed to reduce harmful effects. The possibility of an effect is sufficient to trigger AA.

In response, the DAFM state that the proposal was desk assessed in accordance with Standard Operating Procedures. It was reassessed when revised AA Procedures were introduced in November 2019 and was field assessed on 3 January 2020. The project area is heavily modified peat, historically cutover. It is flat and dry with no aquatic zones or relevant watercourses. Ground cover is gorse, rush and grass. The AA screening process identified 12 Natura 2000 designated sites within 15km and sites outside 15km were also considered. The Natura sites, their qualifying interests and conservation objectives were assessed, and the sites were subsequently screened out for Appropriate Assessment. The County Council response and a submission from a member of the public were considered. The subject lands meet the Land Types for Afforestation requirements and could be planted in line with the Forestry Standards Manual and the Environmental Requirements for Afforestation.

The FAC sat in person at an Oral Hearing in Portlaoise on 17 November 2020. The parties were invited to attend in person or by electronic means. The DAFM participated electronically but the applicant and appellant did not participate. At the Oral Hearing the DAFM reiterated many of the points made in the Statement submitted in response to the grounds of appeal. It was confirmed that the DAFM had carried out an in- combination assessment of the proposed development together with other plans or projects and that this was considered prior to the making of the decision to grant the licence. The site is suitable for broadleaves and Birch is already naturally regenerating. It was noted that the application is for Norway spruce (1.32ha) and broadleaves (0.23ha). The site is serviced by an existing road. The DAFM stated that there is no possibility of significant effects arising from the proposed development



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individually, or in-combination with other plans or projects, on any European sites. Much of the area is intensive agricultural use and there is relatively little forest cover in the area.

In addressing the grounds of appeal the FAC noted that the site is in a rural agricultural area with no aquatic zones or watercourse indicated. The project lands are in the Lower Shannon river catchment and Shannon (Lower)_SC_030 sub-catchment. There are 12 Natura sites within 15km as indicated in the DAFM screening and there is no hydrological connection between the project lands and any of these sites. The DAFM screening listed the qualifying interests and conservation objectives for each site and assessed the likelihood of significant effects arising from the proposed development on Natura 2000 sites, both individually and in combination with other plans or projects. Based on the information before it, the FAC concluded that the DAFM procedures adopted in its Stage 1 screening for Appropriate Assessment and the conclusion of no likelihood of significant effects on any European site were correct. The FAC noted the contention in the written grounds of appeal that Guidelines and Procedures are, in fact, mitigation measures which should not be taken into account. The FAC consider that there is no convincing evidence before it to indicate that the conditions of the licence are mitigation measures for the purposes of avoiding or reducing effects on any Natura 2000 site. In respect of EIA screening, the FAC considered the Inspector's Certification Pre-Approval and the nature and extent of information contained in it. Based on the information available in regard to the nature and scale of the proposed development and the characteristics of the surrounding environment, and to the information contained in the Inspector's Certification Pre-Approval, the FAC concluded that there is no real likelihood of significant effects on the environment arising from the proposed development individually or cumulatively with other plans or projects.

In deciding to affirm the decision to grant the licence, the FAC considered that the proposed development is consistent with Government policy and Good Forestry practice.

Yours Sincerely

Pat Coman, on behalf of the FAC

