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23rd October 2020

Subject: Appeal FAC450/2019 regarding licence TFL00321019

Dear [Redacted]

I refer to your 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

Felling licence TFL00321019 for thinning of 7.24 ha at Mount Plunkett, Co. Roscommon was issued by the Department of Agriculture, Food and the Marine (DAFM) on 27th November 2019.

Hearing

A hearing of appeal FAC450/2019 was held by the FAC on 7th October 2020.

FAC Members in attendance: Mr. Des Johnson (Chairperson), Mr. Pat Coman, Ms. Bernadette Murphy, Mr. Vincent Upton

Decision

Having regard to the evidence before it, including the licence application, processing by the DAFM, the notice of appeal, and, in particular, the following considerations, the Forestry Appeals Committee (FAC) has decided to affirm the decision of the Minister regarding licence TFL00321019.

The licence pertains to the thinning of a forest comprised of 7.24 ha of pedunculate oak and other broadleaves in 2019, 2024 and 2029. The forest is situated in the townland of Mount Plunkett, Co. Roscommon. The estimated number of trees and volume to be felled, percentage canopy cover and age for each species are supplied with the application. As the licence is for thinning no replanting is proposed. Conditions on the licence are of a general nature. The site is crossed by a private laneway that leads to a dwelling to the southeast. The edge of Lough Ree lies c.180 metres to the east and the forest is separated by grassland and existing forest. The proposal is situated in the Shannon (Upper) subcatchment (C_090) of Upper Shannon (26E) Catchment according to EPA data.

There is one appeal against the decision. The grounds relate to the appropriate assessment screening undertaken by the DAFM and suggest that an appropriate assessment should have been undertaken. It suggests that the Forest Service identified that there were Natura 2000 sites within 15km and that in

this case an appropriate assessment was legally required. The grounds also suggest that there is a lack of information on which the decisions regarding appropriate assessment screening are based, including in which catchment the proposal and European sites are located.

In a statement to the FAC, the DAFM stated that they are satisfied that the decision met their criteria and guidelines and that they confirm the licence. They suggest that this is a Broadleaf plantation, now 18 years old, with a conifer nurse, which is to be thinned to achieve 100% native broadleaf (Oak) plantation by removing the conifers. They submit that it is a densely stocked plantation which is not suitable for foraging or nesting species because of predators operating in the existing cover and the abundance of other close suitable habitat.

No specific European sites or effects are referred to in the grounds, which primarily relate to information provided in the screening. Having regard to the record of the decision under appeal and the submitted grounds, the FAC considered the appropriate assessment screening of the proposal in relation to the likelihood of significant effects on European sites arising. The proposal is for a thinning in a planted and managed forest outside of a European site and is not related to or connected with the management of any European site. There are thirteen sites within 15km of the proposal which are considered by the DAFM. The FAC confirmed this using publicly available information provided by the EPA and considers this radius to be reasonable and acceptable in this case. The European sites and distances from the centre of the proposal to the closest boundary, in metres, are Lough Ree SAC (166.4m), Lough Funshinagh SAC (5728m), Fortwilliam Turlough SAC (7061.8m), Corbo Bog SAC (11014.3m), Lough Croan Turlough SAC (11380.4m), Ballinturly Turlough SAC (12418.8m), Lisduff Turlough SAC (12835.3m), Four Roads Turlough SAC (13615.8m), Ballynamona Bog and Corkip Lough SAC (13634.3m), Lough Ree SPA (310m), Lough Croan Turlough SPA (11350.5m), Four Roads Turlough SPA (13654.3m), River Suck Callows SPA (13871.5m). The DAFM considered each of these sites and their qualifying interests in turn and concluded in each case that there was "no possibility that this project will have a significant effect on this NATURA site". The primary reason was an absence of any hydrological connection from the proposal to a European site. The FAC examined aerial imagery of the site and historic maps and could not identify any evidence of a watercourse in or adjacent to the site. None was identified in the grounds of appeal. The FAC noted, in particular, the proximity to Lough Ree SAC and SPA, the boundary of the former adjoins the eastern boundary of the forest to be thinned. These are two large European sites covering an area of more than 12,000ha. While two woodland types are included in the qualifying interests of the SAC (91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles and 91D0 Bog woodland) the forest under licence would not qualify as this habitat type as it was planted in 2002. The FAC considers that there is no likelihood of significant effects on the qualifying interests of the SAC given the nature of the forest under licence, the absence of a watercourse on the proposal site and the absence of a hydrological link with the SAC. The SPA is at a further remove and follows the edge of the lake. The qualifying interests of the SPA are wetland and waterbirds and wetland habitat. As there is no hydrological connection, and noting the separating land uses, significant effects on the wetland habitats are not considered likely. The proposal, being a semi-mature forest would not be considered as important habitat and any noise or other possible disturbance would be of a temporary nature and would not be considered likely given the degree of separation from

and size of the SPA. The DAFM have identified other plans and projects in the vicinity of the proposal including planning permissions accessed on 21st November 2019 and other forestry projects that were considered in the screening. The proposal is within a distinct forest area surrounded by agricultural land and with no direct hydrological connection with another forest or a European site. Based on the information available to it, the FAC concurs with the DAFM conclusion regarding the proposal not resulting in a likelihood of a significant effect on a European site, itself or in combination with other plans or projects, and that appropriate assessment under Article 6 of the Habitats Directive is not required.

Based on the evidence before it, the FAC is satisfied that a serious or significant error or a series of errors were not made in making the decision under appeal, nor that the decision was made without complying with fair procedure. Subsequently, the FAC is affirming the decision of the Minister in line with Article 14B of the Agricultural Appeals Act 2001 as amended.

In deciding to affirm the decision of the Minister to grant the Licence, the FAC concluded that the proposed development would be consistent with Government policy and Good Forestry Practice. Before making its decision, the FAC considered all of the information submitted with the application, the processing of the application by the DAFM, the grounds of appeal and any submissions received.

Yours sincerely,



Vincent Upton On Behalf of the Forestry Appeals Committee

