



**An Coiste um Achomhairc
Foraoiseachta**

Forestry Appeals Committee

24 September 2020

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

Our ref: FAC 219/2019

Subject: Appeal in relation to felling licence TFL00270619

Dear [REDACTED]

I refer to the appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine (DAFM) in respect of felling licence TFL00270619.

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

Felling licence TFL00270619 was granted by the Department on 26 August 2019.

Hearing

A hearing of appeal 219/19 was conducted by the FAC on 22 September 2020.

FAC Members:

Mr Des Johnson (Chairperson), Mr Vincent Upton, Ms Bernadette Murphy 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, the grounds of appeal, and all submissions/observations, before deciding to confirm the decision to grant the Licence (TFL 00270619).

The proposed development is for felling on a stated site area of 13.19ha in 3 blocks at Edergole, Leitrim. Block 1 is 2.63ha and thinning of oak and beech is proposed for 2019. Block 2 is 3.98ha and thinning of Japanese Larch and Sitka Spruce is proposed in 2019 and clear-fell in 2029. Block 3 is 6.58ha and thinning of Sitka Spruce is proposed in 2019 with clear-fell in 2029. It is proposed to replant blocks 2 and 3 with 100% Sitka Spruce.

DAFM referred the application to Leitrim County Council and internally to an archaeologist. The County Council responded stating that the site is not located within a designated area as indicated in the County Development Plan, and there are no tree preservation orders affecting the site. There

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are two Recorded Monuments and consultation with the Development Applications Unit is recommended in respect of these. Specific conditions are recommended relating to a transport scheme, and bonding against damage to public roads. The Archaeologist's response recommends general and specific conditions. Specifically, there is a recommendation for conditions requiring a Felling Management Plan for works within 20m of the known extent of the ringfort and 50m from the speculated centre point of the levelled enclosure. No replanting or deep drains should be permitted within an additional 10m beyond this exclusion zone. A drawing submitted is submitted with the response.

An objection was submitted to DAFM raising a number of environmental concerns. There is also a general objection to felling and replanting with monoculture.

The DAFM Inspector's certification states that the site is not sensitive to fisheries, and not within a designated site or a Fresh Water Pearl Mussel zone. Soils are predominantly podzols and the slope is flat to moderate. The project lands are crossed by/adjoin an aquatic zone.

The DAFM issued the licence on 26th August 2019 subject to standard conditions plus condition (h) requiring that 15% of the species to be replanted to be broadleaves consisting of Oak, Birch and Rowan. Additional archaeological conditions are also attached.

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

In response to the appeal, DAFM state that the decision was made in accordance with S.I. 191/2017 and the 2014 Forestry Act. The relevant Appropriate Assessment procedures were followed at the time. There are no Natura 2000 sites within 15km, and there is no hydrological connection to any Natura 2000 site. Under current procedures the proposal would again be screened out. In-combination effects are listed, including planning permissions for dwelling houses and domestic extensions, and slatted sheds. Other forestry projects listed include afforestation, forestry road and felling licences. It is concluded that, individually the proposed development is not a source and there is no pathway to any Natura 2000 site. Therefore, there is no potential for in-combination effects.

The FAC considered that, having regard to the nature and scale of the proposal and the characteristics of the surrounding area, Natura 2000 sites within a radius of 15km should be considered for screening assessment under the Habitats Directive. There are no such designated sites. The FAC noted that the Relagh River is adjacent to the west of the project lands and the River Cornulla is approximately 700m to the east but that there is no direct hydrological connection between the project site and these watercourses. Furthermore, the FAC noted that there is no hydrological connection between the listed rivers and any Natura 2000 sites within 15km downstream. Killylea Lough is approximately 1.3km to the south east, separated by agricultural fields and forestry plantation, and there is no hydrological connection between the project lands and this lake. In these circumstances, the FAC concluded that the proposed development alone, or in combination with any other projects, including forestry projects in the area, would not give rise to the possibility of any significant effects on any Natura 2000 site. This conclusion concurred with the conclusion of the DAFM. Having regard to separation distance and absence of hydrological



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connectivity, the FAC concluded that the proposed development would not have any adverse impact on Killylea Lough.

Felling (and reforestation) does not fall within a class of development to which the EIA Directive applies, and the proposed operation does not include works which, by themselves, would be of a class of development to which the EIA Directive applies. As such, there is no requirement for an examination of the proposal in the context of the provisions of the EIA Directive. The project lands are in a rural, agricultural area with sparse and dispersed settlement and significant forestry cover. The FAC noted that the Relagh River is adjacent to the west and that this flows south before merging with the Cloone River. The Cloone eventually flows into Lough Sallagh, then to Lough Errew and Lough Rinn. These lakes are all proposed NHAs but, having regard to the hydrological distance involved, the proposed development would not give rise to any adverse impact on any of these lakes. Having regard to the nature and scale of the proposal and the characteristics of the wider area, the FAC concluded that no significant effects on the environment would arise from the proposed development alone, or cumulatively with other projects and land uses in the area.

In deciding to confirm the decision to grant the licence the FAC considered that the proposed development would be consistent with Government policy and Good Forestry Practice.

Yours sincerely,

Pat Coman on behalf of the Forestry Appeals Committee

