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25th September 2020

Subject: Appeal FAC449/2019 regarding licence TFL00317319

Dear [REDACTED]

I refer to the 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 TFL00317319 for thinning of 9.74 ha at Cumminstown, Clonglin, Co. Westmeath was issued by the Department of Agriculture, Food and the Marine (DAFM) on 16th December 2019.

Hearing

A hearing of appeal FAC449/2019 was held by the FAC on 22nd September 2020.

FAC Members: 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 confirm the decision of the Minister regarding licence TFL00317319.

The licence pertains to the first and second thinning of a number of plots of common alder, ash, hybrid larch and Norway spruce in 2019, 2024 and 2028 across a total area of 9.74 ha divided into two forest blocks in close proximity. There is no clearfelling or replanting proposed. Felling information regarding number of trees and volume was provided with the application. An ESB line runs north-south across the blocks and a buffer is in situ around the lines. A watercourse, named the Grangegibbon on EPA maps, to the north of the southern block is marked on the map provided with the application and flows easterly to meet the Brosna river. The DAFM suggest that the forest is setback from this watercourse and aerial imagery of the site would suggest this to be the case and no information was provided to the FAC to contradict this. The forest is in the Brosna subcatchment of the Lower Shannon (ID 25A) catchment. The access route through an existing farmyard is also marked. The proposal was referred to the DAFM Archaeologist who noted that there are no monuments in or adjoining the site and that the closest one is a barrow 240m from the site.

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 the inspector did not show evidence on which responses that they provided in the screening were based and that in this case an appropriate assessment was legally required.

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. The statement goes on to suggest that while a watercourse lies to the south of the proposal that the forest is setback from the water and bordered by broadleaf trees and that there is no hydrological connection from the plantation to the watercourse. They further suggest that the plantation is outside of the commuting range of birds related to Natura 2000 sites and that there is no possibility of a significant effect from thinning operation.

In considering the appeal and before making a decision, the FAC undertook a screening in relation to the requirements of the Habitats Directive. The proposal is not connected with or necessary to the management of any European site. There are six sites whose boundaries fall within 15km of the proposal. There are no conditions on the licence that relate to the mitigation of effects on a European site and none were considered in this screening.

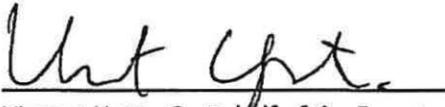
The closest European site is the Split Hills and Long Hill Esker SAC lies to the north, while the Brosna flows through the SAC the Grangeegibbon joins the Brosna downstream from it and the hydrology of the terrestrial habitat associated with the SAC would not be impacted. The separation distance would ensure that there is no likelihood of any effects occurring. Lough Ennell SAC also lies to the north upstream along the Brosna and the absence of a downstream hydrological connection coupled with the degree of separation of over 6.5km would preclude a likelihood of significant effects arising. The boundary of Raheenmore Bog SAC lies 7.9km to the southeast in a separate subcatchment with no hydrological connection with the proposal and there is no likelihood of significant effects arising. Clara Bog SAC lies over 9.6km to the southwest with no direct hydrological connection and significant effects on this SAC are not likely. Charleville Wood SAC, whose qualifying interests are a terrestrial habitat and species, lies some 11.7km to the south in a separate subcatchment with no hydrological connection. The border of Lough Ennell SPA lies 7.5km to the north upstream of the proposal. The proposal would occur in a semi-mature forest which would not be considered suitable habitat for the wetland species associated with the SPA and the degree of separation distance and downstream position would further preclude a likelihood of significant effects arising. The FAC concluded that the possibility of significant effects occurring on any other European site could be discounted given the nature, scale and location of the proposal.

The proposal would occur within a semi-mature forest surrounded by agricultural land with existing access to the public road and bordered by a quarry to the south. There are no other forests adjacent to the proposal while a small number of felling licences have been granted in the general area, one in 2020 and none in 2019. There are few other permissions granted in the area and none that form a connection to the proposal. The County Development Plan was also considered and no issues of concern were

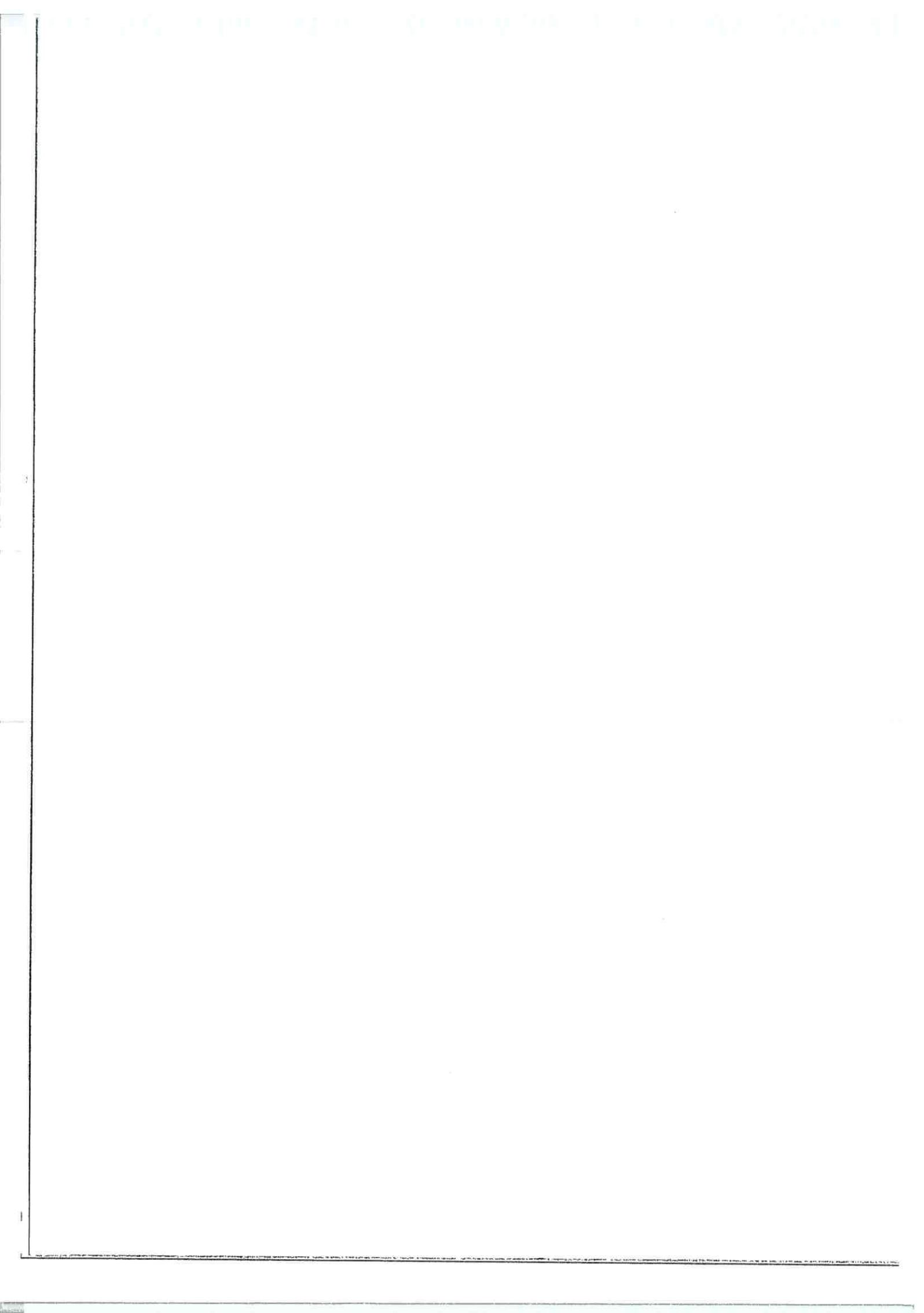
identified. Due to the absence of any pathway from the proposal to a European site and the nature and scale of the proposal there is no likelihood of these other plans and projects resulting in an in-combination effect with the proposal. There are no licence conditions that relate to the mitigation of effects on a European site and none were considered in the screening. Having regard to the limited nature, small scale and location of the proposal, its degree of separation from European sites and the conservation objectives of those sites, the FAC concluded that the proposal is not likely to have any significant effect on any European site, itself or in combination with other plans or projects and that appropriate assessment under Article 6 of the Habitats Directive was not required. The FAC's conclusion concurred with the conclusion reached by the DAFM following screening.

In deciding to confirm 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,

A handwritten signature in black ink, appearing to read 'Vincent Upton', written over a horizontal line.

Vincent Upton On Behalf of the Forestry Appeals Committee





FAC449/2019 TFL00317319 Cumminstown, Clonaglin, Co. Westmeath

23rd September 2020

Before making its decision the Forestry Appeals Committee (FAC) undertook an appropriate assessment screening of the proposal in line with the Habitats Directive and examined the proposal from the perspective of the likelihood of significant effects on the environment. These considerations were based on information provided by parties to the appeal, including the original application, and available in the public domain. The FAC is satisfied that the information available to it is sufficient to undertake these considerations of the proposal.

The licence pertains to the first and second thinning of a number of plots of common alder, ash, hybrid larch and Norway spruce in 2019, 2024 and 2028 across a total area of 9.74 ha divided into two forest blocks in close proximity. There is no clearfelling or replanting proposed. Felling information regarding number of trees and volume was provided with the application. An ESB line runs north-south across the blocks and a buffer is in situ around the lines. A watercourse, named the Grangegibbon on EPA maps, to the north of the southern block is marked on the map provided with the application and flows easterly to meet the Brosna river. The DAFM suggest that the forest is setback from this watercourse and aerial imagery of the site would suggest this to be the case and no information was provided to the FAC to contradict this. The forest is in the Brosna subcatchment of the Lower Shannon (ID 25A) catchment. The access route through an existing farmyard is also marked. The proposal was referred to the DAFM Archaeologist who noted that there are no monuments in or adjoining the site, closest one is a barrow 240m from the site.

Appropriate Assessment Screening

The proposal is for a number of thinning interventions in a managed forest and is not connected with or necessary to the management of any European site. There are six sites whose boundaries fall within 15km of the proposal and are listed below alongside the distance from the boundary to the centre of the proposal and their qualifying interests and conservation objectives.

The closest European site is the Split Hills and Long Hill Esker SAC lies to the north, while the Brosna flows through the SAC the Grangegibbon joins the Brosna downstream from it and the hydrology of the terrestrial habitat associated with the SAC would not be impacted. The separation distance would ensure that there is no likelihood of any effects occurring. Lough Ennell SAC also lies to the north upstream along the Brosna and the absence of a downstream hydrological connection coupled with the degree of separation of over 6.5km would preclude a likelihood of significant effects arising. The boundary of Raheenmore Bog SAC lies 7.9km to the southeast in a separate subcatchment with no hydrological connection with the proposal and there is no likelihood of significant effects arising. Clara Bog SAC lies over 9.6km to the southwest with no direct hydrological connection and significant effects on this SAC are not likely. Charleville Wood SAC, whose qualifying interests are a terrestrial habitat and species, lies some 11.7km to the south in a separate subcatchment with no hydrological connection. The border of Lough Ennell SPA lies 7.5km to the north upstream of the proposal. The proposal would occur

in a semi-mature forest which would not be considered suitable habitat for the wetland species associated with the SPA and the degree of separation distance and downstream position would further preclude a likelihood of significant effects arising. The FAC concluded that the possibility of significant effects occurring on any other European site could be discounted given the nature, scale and location of the proposal.

The proposal would occur within a semi-mature forest surrounded by agricultural land with existing access to the public road and bordered by a quarry to the south. There are no other forests adjacent to the proposal while a small number of felling licences have been granted in the general area, one in 2020 and none in 2019. There are few other permissions granted in the area and none that form a connection to the proposal. The County Development Plan was also considered and no issues of concern were identified. Due to the absence of any pathway to a European site and the nature and scale of the proposal there is no likelihood of these other plans and projects resulting in an in-combination effect with the proposal. There are no licence conditions that relate to the mitigation of effects on a European site and none were considered in the screening.

Having regard to the limited nature, small scale and location of the proposal, its degree of separation from European sites and the conservation objectives of those sites, the FAC concluded that the proposal is not likely to have any significant effect on any European site, itself or in combination with other plans or projects.

Site Type	Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives	Assessment
SAC	001831	Split Hills and Long Hill Esker SAC	1077.91	Habitats 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites)	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO01831.pdf	No likelihood of significant effects
SAC	000685	Lough Ennell SAC	6576.10	Habitats 7230 Alkaline fens	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO00685.pdf	No likelihood of significant effects
SAC	000582	Raheenmore Bog SAC	7901.73	Habitats 7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO00582.pdf	No likelihood of significant effects
SAC	000572	Clara Bog SAC	9643.39	Habitats 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites)	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO00572.pdf	No likelihood of significant effects

				7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion 91D0 Bog woodland*	00572.pdf	
SAC	000571	Charleville Wood SAC	11686.03	Habitats 91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles Species 1016 Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>)	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO00571.pdf	No likelihood of significant effects
SPA	004044	Lough Ennell SPA	7464.84	Birds A061 Tufted Duck (<i>Aythya fuligula</i>) A059 Pochard (<i>Aythya ferina</i>) A125 Coot (<i>Fulica atra</i>) Habitats Wetlands	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO04044.pdf	No likelihood of significant effects

Examination of Environmental Impacts

The EU Directive sets out, in Annex I a list of projects for which EIA is mandatory. Annex II contains a list of projects for which member states must determine through thresholds or on a case by case basis (or both) whether or not EIA is required. Neither afforestation nor deforestation are referred to in Annex I. Annex II contains a class of project specified as "initial afforestation and deforestation for the purpose of conversion to another type of land use" (Class 1 (d) of Annex II). The Irish Regulations, in relation to forestry licence applications, require the compliance with the EIA process for applications relating to afforestation involving an area of more than 50 Hectares, the construction of a forest road of a length greater than 2000 metres and any afforestation or forest road below the specified parameters where the Minister considers such development would be likely to have significant effects on the environment. The felling of trees, as part of a forestry operation with no change in land use, does not fall within the classes referred to in the Directive, and is similarly not covered by the Irish regulations (S.I. 191 of 2017).

The proposal is of a small scale and for two thinning interventions, without the clearance of land, which would be normal activities in a managed forest and would be carried out under licence and with conditions to adhere to a series of requirements and guidelines. No clearfelling or replanting is proposed. The forest is situated c.2.5km northeast of Kilbeggan. There is a farmhouse and associated building close to the forest and access to the public road is provided. There are no other dwellings in proximity to the forest. Traffic and noise will likely increase during operations but this would be of a limited nature and timescale and would not be out of keeping with other management practices in the area. There are a number of conditions related to the protection of biodiversity and water quality on the licence and, taking account of the scale and nature of the proposal and noting the watercourse adjacent to the site, the proposal is not considered likely to result in a significant impact on water quality or biodiversity. Geological survey of Ireland maps describe the geology in the area as limestone and there is no evidence of underground hydrological connections in the area. There are no nature conservation

areas in the vicinity and the FAC concluded that there is no likelihood of a significant effect on any European site. There are conditions on the licence regarding the management of operations that mean that the occurrence of waste and pollution of a significant degree are not likely. There are no recorded monuments in the site and the closest recorded monument lies some 240 metres from the site. The FAC does not consider that the proposal falls within the classes included in the Annexes of the EIA Directive or considered for EIA in Irish Regulations and does not consider that it would result in any real likelihood of a significant effect on the environment.

Vincent Upton
On Behalf of the Forestry Appeals Committee