



**An Coiste um Achomhairc
Foraoiseachta**

Forestry Appeals Committee

11 September 2020

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Our ref: FAC 393/2019

Subject: Appeal in relation to felling licence TFL00327919

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 felling licence TFL00327919.

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 TFL00327919 was granted by the Department on 19 November 2019.

Hearing

A hearing of appeal 393/19 was conducted by the FAC on 09 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, further information submitted to DAFM on 26th July 2019, the grounds of appeal, all submissions/observations, and carried out a Stage 1 screening in accordance with the provisions of the Habitats Directive and an examination in respect of environmental effects, before deciding to confirm the decision to grant the Licence (TFL00327919).

The proposal is for the felling of 0.6ha and reforestation with Alder. Soils are stated to be predominantly highly modified peat and peaty podzols. The slope is flat to moderate. The site does not adjoin an aquatic zone. The nearest river is the Stravicnabo approximately 150m to the east of the project site, and this flows in a southerly direction. There are no archaeological features on the site. The site is adjacent to woodland to the west and there are other small plantations approximately 500m to the north.

**An Coiste um Achomhairc
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Forestry Appeals Committee**

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The application was referred to Cavan County Council and there is no response on file.

The Licence was issued on 19th November 2019 subject to standard conditions plus a requirement that there is no planting permitted within 10m of the centre line of the ESB corridor.

There is a single appeal against the decision to grant the Licence. The grounds of appeal argue that, based on the information supplied, it is not possible to make a decision that conforms with the provisions of the Habitats and EIA Directives. Reference is made to the test in the Finlay Geoghegan judgment in *Kelly v An Bord Pleanála* that there is no need to establish a significant effect merely that there may be such an effect. If mud was to enter lakes it could have an effect on a SAC or SPA. The 15km radius has no relevance as there may still be an effect.

Addressing the grounds of appeal, the FAC carried out a screening in accordance with the provisions of Article 6(3) of the Habitats Directive and an examination of likely significant effects on the environment. These are contained on the public file. Having regard to the nature and scale of the development and its location, the FAC considered that Natura 2000 sites within a 15km radius should be assessed and that there is no possibility of significant effects on any Natura site outside of that radius. There is one Natura 2000 site within a 15km radius of the project site – Lough Sheelin SPA – at a separation distance of 13298m. The qualifying interests for this site are Goldeneye, Tufted Duck, Pochard and Great Crested Grebe, together with wetlands habitat. There is no aquatic zone on the site and no hydrological connection between the project site and Lough Sheelin SPA. The project site does not provide suitable habitat for any of the bird species listed and would have no impact on the wetlands habitat listed for the designated site. Having regard to the small scale of the proposal, the absence of hydrological connectivity and the separation distance between the project site and Lough Sheelin SPA, the FAC concluded that there is no likelihood of significant effects on the designated site, having regard to its qualifying interests and conservation objective. Furthermore, having regard to the characteristics of the surrounding area, including forestry projects, the FAC concluded that the proposed development, in-combination with other projects or land uses, would not give rise to the likelihood of significant effects on Lough Sheelin SPA, having regard to its conservation objective. The FAC conclusions concurred with the conclusions reached by DAFM in their assessment of the application.

There is no hydrological connectivity to any lake within 20km and no possibility that mud would enter a lake and have any effect on a Natura 2000 site.

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.

In terms of environmental effects, the proposed development, which is small in scale, will give rise to short-term and intermittent noise and disturbance during felling operations but this would not be significant. There would be a visual impact which will change over time resulting from thinning, clear-felling and reforestation with Alder. Reforestation with Alder is likely to be beneficial in terms of biodiversity. The site does not have hydrological connection to any significant watercourse and any impact on water quality will be short-term and locally confined. There is no direct hydrological connectivity to the Stravicnabo River, which is approximately 150m to the east. There would be no



**An Coiste um Achomhairc
Foraoiseachta**

Forestry Appeals Committee

significant impact on fisheries or on any designated site and no significant impact on any archaeological site. Having regard to the very limited scale of the proposal and the existing pattern of development in the area, including forestry projects, the FAC concluded that there is no possibility that the proposed development alone, or cumulatively with other projects and land uses, would be likely to have significant effects on the environment.

In deciding to confirm 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 Forestry Appeals Committee



TFL 00327919 - Assessments

Proposed development and location

The proposal is for felling of 0.6ha and replanting with Alder. Soils are stated to be predominantly highly modified peat and peaty podzols. The slope is flat to moderate. The site does not adjoin an aquatic zone. The nearest river is the Stravicnabo approximately 150m to the east of the project site, and this flows in a southerly direction. There are no archaeological features on the site.

This is a rural agricultural area with a dispersed settlement pattern. Forestry licenced for thinning or clearfell within a 5km radius is stated to be 2.56%. There is a woodland area adjacent to the west of the project site.

Screening for Appropriate Assessment

The proposed development (0.6ha felling) is not connected with or necessary to the management of any Natura 2000 site.

Having regard to the nature and scale of the development and its location, it is reasonable to consider and assess possible effects, if any, on Natura 2000 sites within a radius of 15km. The FAC considered that there is no possibility of significant effects on any Natura site outside of that radius.

There is one Natura 2000 site within a 15km radius of the project site – Lough Sheelin SPA. This, together with the qualifying interests and direct separation distance, are listed below:

Lough Sheelin SPA (13298m)

- Goldeneye
- Tufted Duck
- Pochard
- Great Crested Grebe
- Wetlands

There is no aquatic zone on the site and no hydrological connection between the project site and Lough Sheelin SPA. The nearest river is the Stravicnabo approximately 150m to the east of the project site, and this flows in a southerly direction. The project site does not provide suitable habitat for any of the bird species listed and would have no impact on the wetlands habitat listed for the designated site. Having regard to the small scale of the proposal, the absence of hydrological connectivity and the separation distance between the project site and Lough Sheelin SPA, there is no possibility of significant effects arising having regard to the qualifying interests listed and the conservation objective 'to maintain or restore the favourable conservation condition of the bird species listed'. There is no hydrological connectivity to any lake within 20km.

This is a rural agricultural area with a dispersed settlement pattern. There is an area of mature woodland shown adjacent to the west and two other small areas of woodland approximately 550m to the north. There is a quarry approximately 15km to the west. There is no hydrological connection between the project site and any of these land

uses. Having regard to the small scale of the proposed development, the absence of hydrological connectivity and the separation distance, it is concluded that the proposed development, in-combination with other projects or land uses, would not give rise to the likelihood of significant effects on Lough Sheelin SPA, having regard to its conservation objective.

None of the conditions attaching to the Licence granted require any measures to be taken to avoid or reduce effects on any Natura 2000 site.

Examination of environmental impacts

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.

In terms of environmental effects, the proposed development, which is small in scale, will give rise to short-term and intermittent noise and disturbance during felling operations but this would not be significant. There would be a visual impact which will change over time resulting from thinning, clearfelling and reforestation. Reforestation with Alder, as proposed is likely to be beneficial in terms of biodiversity. The site does not have hydrological connection to any significant watercourse and any impact on water quality will be short-term and locally confined. There is no direct hydrological connectivity to the Stravicnabo River, which is approximately 150m to the east. There would be no significant impact on fisheries or on any designated site and no significant impact on any archaeological site. Having regard to the very limited scale of the proposal and the existing pattern of development in the area, including forestry projects, there is no possibility that the proposed development alone, or cumulatively with other projects, plans or land uses, would give rise to significant effects on the environment.

Des Johnson

On behalf of the Forestry Appeals Committee

10th September 2020.