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12 February 2021

Dear [REDACTED]

I refer to your appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine in respect of Tree Felling Licence approval TFL00353519.

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

Tree Felling Licence TFL00353519 was granted by the Department on 3 July, 2020.

Hearing

A hearing of appeal 509/2020 was conducted by a division of the FAC on 16 November, 2020.

FAC Members: Mr. Myles Mac Donncadha (Chairperson), Ms. Claire Kennedy and Ms. Bernadette Murphy.

Decision

The Forestry Appeals Committee considered all of the documentation on the file, including application details, processing of the application by DAFM, and the grounds of appeal before deciding to affirm the decision to grant this Tree Felling Licence (Reference TFL00353519).

The proposal is for 4.34ha of thinning in one block of forestry comprising Sitka spruce/Hybrid larch mixture (2.4ha), Alder (0.8ha) and Ash (1.14ha) in Cloondrihara, Co. Sligo. The applicant indicated that the harvesting operations were to be carried out in 2020, 2024 and 2029.

The project area borders agricultural land to the North, East and West, with another block of mature forestry to the south. The area is adjacent to a public road. The slope is predominately flat with an elevation range across the site of 10m. The main soil types on site are highly modified peats and peaty podzols. The project is located within the WFD catchment of Moy & Killala Bay and WFD River sub-basin of Moy_030 (IE_WE_34M020100).

The River Moy SAC (code: 002298) lies 0.21 km to the South and 0.68km to the West of the project area. The project is also within 15km of the following Natura 2000 sites:

- The Ox Mountains Bogs SAC (code: 002006) - 2.4km
- Ballysadare Bay SAC (code: 000622) - 13.2km
- Ballysadare Bay SPA (code: 004129) - 13.2km
- Cloonakillina Lough SAC (code: 001899) - 13.3km
- Doocastle Turlough SAC (code: 000492) - 10.6km
- Flughany Bog SAC (code: 000497) - 14.1km
- Knockalongy and Knockachree Cliffs SAC (code: 001669) - 7.9km
- Lough Hoe Bog SAC (code: 000633) - 14.2km

- Lough Nabrickkeagh Bog SAC (code: 000634) - 11.2km
- Templehouse And Cloonacleigha Loughs SAC (code: 000636) - 5.2km
- Turloughmore (Sligo) SAC (code: 000637) - 5.8km
- Unshin River SAC (code: 001898) - 3.8km

DAFM referred the licence to North West Regional Fisheries Board and Archaeology for consultation. No comments were on file from NWFB or Archaeology Department for this project.

On 23 June 2020, the Forest Service District Inspector undertook a Stage 1 screening assessment in relation to the provisions of the Habitats Directive using the Appropriate Assessment Screening protocol in place at the time. Thirteen Natura 2000 sites were identified along with their qualifying interests and were assessed to determine if the proposed development alone, or in-combination would give rise to the likelihood of significant effects. The inspector noted that while the existing site feature of a 10 m buffer zone adjacent to the stream crossing the site was a factor in reducing the risks on this site, it was not regarded as a mitigation as it is already *in-situ*.

On 22 June 2020 the potential for the proposed project to contribute to an in-combination impact on Natura 2000 sites was considered by DAFM focusing on the general vicinity of the project area in the River sub Basin Moy_30. The Assessment concluded that the licenced activity could be screened out on the basis that the project itself and in-combination with other plans or projects in the area, would be unlikely to have a significant effect on the identified Natura 2000 sites or their qualifying interests.

DAFM issued a licence on 3 July 2020 with the standard felling licence conditions.

There is one appeal against the decision in the nature of the proximity of the proposed project to the River Moy SAC (code: 002298) and the hydrological connection between the project and the SAC. The appellant states that from the documentation supplied to them there is no indication that it was correctly screened for Appropriate Assessment. The appellant also proposes that AA should examine the in combination effects of this project with nearby licenced projects (TFL00302619 & TFL00316419) which are also the subject of separate appeal.

The DAFM responded to the grounds of appeal stating that the licence application had been processed according to the relevant Forest Service Appropriate Assessment Guidelines and Standard Operating Procedures.

Under Article 6(3) of the Habitats Directive, any plan or project not directly connected with or necessary to the management of a European site, must be subject to an assessment of the likely significant effects the project may have on such a designated site, either individually or in combination with other plans projects, having regard to the conservation objectives of that designated site. In this case, the DAFM undertook a Stage 1 screening in relation to the thirteen Natura 2000 sites within the 15km or less radius and concluded that the proposed project individually or in combination will not cause a significant impact on the qualifying interests of the sites.

The FAC had regard to the record of the decision under appeal and the submitted grounds. The FAC is satisfied that the procedures adopted by the DAFM in reaching the conclusion that the proposed development would not be likely to give rise to significant effects were correct based on the AA screening process used.

In deciding to affirm the licence decision, on the balance of evidence, the FAC is satisfied that there was no serious or significant error or series of errors made in making the decision or that the decision was

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made without complying with fair procedures. The FAC concluded that the proposed development would be consistent with Government policy and Good Forestry Practice.

Yours sincerely

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Mr. Myles Mac Donncadha (on behalf of the FAC)

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