



[REDACTED]

31 December 2020

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 Afforestation approval CN83651.

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

Afforestation CN83651 was granted by the Department on 22 May, 2020.

Hearing

A hearing of appeal 279/2020 was conducted by 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 Afforestation (Reference CN83651).

The proposal is for afforestation with a species composition of Sitka spruce (87%), and additional Broadleaves (13%) in MoyBoluge, Moyhill, Co Meath. Broadleaves will be used to soften edges and will be concentrated around setbacks from roads and dwellings. The proposal area is of 4.66 hectares of enclosed land. It has a southerly aspect and there is adequate access to the site. Ground preparation would include mounding and the planting method would be slit planting. Herbicide control is proposed in year 1. The application identifies the soil type underlying the project area as predominantly podzolic in nature with the mineral soil giving way to a depression of peaty soil near the road. The slope is mostly steep (15% to 30%). The project area does not adjoin or contain an aquatic zone. The vegetation type within the project area comprises wet grassland, hedgerows treelines, rank wet grassland.

DAFM referred the license to Meath County Council and NPWS for consultation. There are no responses on file from Meath County Council. NPWS responded indicating that they had no comments to make on the application. The application was also referred to the archaeologist. They responded indicating that specific conditions be attached to the licence.

The Forest Service Inspector undertook a desk and field inspection of the site and on 16 March 2020 the inspector carried out an AA screening assessment for each of the three individual Natura sites within the 15km zone in accordance with the provisions of the Habitats Directive. They also carried out an in-Combination Assessment on the 19 March 2020.

DAFM issued a licence on 22 May 2020 together with the standard licence conditions and additional conditions recommended by the archaeologist.

There is one appeal against the decision. The appellant asserts that the decision to grant the licence does not comply with the Habitats, Birds or EIA Directives. 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 suggest that where an EIA screening is undertaken that other forestry projects in the area must be taken into account. The Appellant also submitted grounds relating to legal obligations of the Forestry Appeals Committee.

In a statement to the FAC, DAFM responded to the grounds of appeal stating that the decision to issue the licence was in accordance with their procedures, S.I. 191/2017 and the 2014 Forestry Act. DAFM carried out AA Screening for each of the three individual Natura sites within the 15km zone of consideration on 19 March 2020. They also carried out an in-Combination Assessment.

The FAC has examined the file. The site for the proposed afforestation is in a rural area with agriculture being the primary landuse. There are three Natura sites within a 15 km distance, Killyconny Bog, (Cloghbally) SAC 000006, River Boyne and River Blackwater SPA 004232, and River Boyne And River Blackwater SAC 002299. The location of the proposed afforestation is within a separate water body catchment to that containing the Natura sites with no hydrological connection

The grounds of appeal contend that the decision does not comply with the EIA Directive. In respect of the EIA Directive, the FAC concludes that felling and reforestation do not represent a class of development covered by the Directive and that the proposed development does not involve any works, which of themselves, would be a class of development covered by the Directive. As such, the FAC does not accept that there is a requirement for EIA screening in this case.

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 including in-combination effects in relation to the listed Natura 2000 sites and concluded that the proposed project would not have a significant effect on these sites and its Qualifying Interests.

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 in use at the time.

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 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



Ms. Claire Kennedy (on behalf of the FAC)

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