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28<sup>th</sup> September 2021

**Subject:** Appeal FAC 811/2020 in relation to licence CN85535

Dear [Redacted]

I refer to an appeal made to the Forestry Appeals Committee (FAC) in relation to this decision by the Minister for Agriculture, Food and the Marine (DAFM). The FAC established in accordance with Section 14 A (1) of the Agriculture Appeals Act 2001 (as amended), has now completed an examination of the facts and evidence provided by the parties to the appeal.

#### **Background**

Licence CN85535 for afforestation of 15.25 hectares(ha) at Greenan, Co. Meath was granted by the DAFM on 8<sup>th</sup> October 2020.

#### **Hearing**

A hearing of appeal FAC 811/2020 was held by a division of the FAC on 5<sup>th</sup> July 2021. In attendance:  
FAC Members: Mr. Myles Mac Donncadha (Chairperson), Mr. Derek Daly & Mr. James Conway

#### **Decision**

Having regard to the evidence before it, including the record of the decision by the DAFM, the notice of appeal, and all submissions received, the Forestry Appeals Committee (FAC) has decided to affirm the decision of the Minister to grant this licence CN85535.

The licence pertains to afforestation of one block of enclosed land of 15.25 ha GPC 9 (Native Woodland Establishment), with species proposed as Pedunculate Oak (40%), Downy Birch (20%), Hazel (20%) and ADB (20%). The proposal includes ground preparation of woody weed removal and mounding and the planting method is to be pit planting. No fertiliser is proposed, while herbicide control was initially proposed in years 0, 1, 2 and 3.

The proposal area is proximate to the Meath and Westmeath county boundary, bounded by both existing forestry and grassland. The proposal area is within the Inny\_020 River Sub Basin and Lough Lene-Adeel Stream\_010 River Sub Basin. The Inny\_020 has a moderate WFD status (2013-2018), with agriculture listed as a pressure. The Lough Lene-Adeel Stream\_010 also has a moderate WFD status (2013-2018), with agriculture listed as a pressure. The Inny\_020 is in the Inny (Shannon)\_SC\_010 and the Upper Shannon WFD Catchment (#26F). The Lough Lene-Adeel Stream\_010 is in the Deel(Raharney)\_SC\_010 and the Boyne WFD Catchment (#7).

The DAFM referred the application externally to the NPWS, An Taisce and Meath County Council, but a reply is only on file from Meath County Council who provided observations but no objection. The application was referred internally in the DAFM to Archaeology. The DAFM Archaeological report outlines that: *"The area proposed for afforestation does not contain any Recorded Monuments. The nearest such monument is an earthwork (ME015-057) located some 120 meters northwest of the proposed development area. In addition, there are two previously unidentified features of archaeological potential, one rectangular and one circular, visible on the aerial photography to the north of the site in close proximity to one another and the recorded monument. Furthermore the aerial photography also depicts extensive earthworks relating to a probable post medieval, industrial quarrying complex northeast of the site."* The archaeological conditions proposed with it related to adherence to guidelines and actions to be followed if previously unrecorded archaeological site or undiscovered artefacts were found.

The DAFM's Inspector Certification document described the site details as this project comprises 15.25 hectares of afforestation, the predominant soil type underlining the project area is predominantly podzols in nature, the slope is predominantly steep (15% to 30%), the project area is crossed by / adjoins an aquatic zone(s), the vegetation type(s) within the project area comprise species rich grassland, scrub, treelines, hedgerows, felled woodland, wetland, stone walls, relevant watercourse pathways, soils are thin, Valuable Tban wetland complex is nearby as is another extensive wetland to the southwest, turloughs may be in the surrounding landscape.

The DAFM undertook a stage 1 Appropriate Assessment screening in relation to the provisions of the Habitats Directive, and found ten European sites (Garriskil Bog SAC 000679, Lough Bane And Lough Glass SAC 002120, Lough Derravaragh SPA 004043, Lough Kinale and Derragh Lough SPA 004061, Lough Lene SAC 002121, Lough Sheelin SPA 004065, Moneybeg And Clareisland Bogs SAC 002340, River Boyne And River Blackwater SAC 002299, River Boyne and River Blackwater SPA 004232 and White Lough, Ben Loughs And Lough Doo SAC 001810) within 15km of the proposal and that there was no reason to extend this radius in this case. The sites were considered with their qualifying interests and conservation objectives listed and the reasons for screening them out are provided. The proposal's potential to contribute to in-combination effects on European sites was also considered with other plans and projects in the vicinity of the site listed. The DAFM also considered the environmental effects of the proposal across a range of criteria and determined that the project was not required to undergo the EIA process. The licence issued on 8<sup>th</sup> October 2020 subject to conditions, including the following;

*On foot of Forest Service Ecologist recommendations and for reasons of mitigating against potential adverse impacts on the local habitats and species the following conditions apply*

- 1. At all times strictly adhere to DAFM Environmental Requirements for Afforestation*
- 2. Exclude the species-rich grassland area on the steep north-east facing slope as shown on attached map. Exclude it as a 50m x 300m area (see Figure 1). This will enable this area to be grazed and will help to maintain/enhance the species diversity of the grassland and continue to provide habitat for associated invertebrates and birds.*

3. *Adjoining the proposed wetland depression ABE area on the hill, apply a 10m habitat set back from the edge of this wetland habitat, which is to be retained unplanted.*
4. *Ground preparation on the slopes is by pit planting only. Ground preparation elsewhere by invert mounding or pit planting.*
5. *If an access track into the site is required, the current vertical track up the slope is to be replaced by an access track that zig zags up the slope, and that follows the contours of the hill. This will ensure no risk of erosion and runoff from the hill slope down into the adjoining grassland and wetlands.*
6. *Ongoing and future management of the CN85535 woodland is to be by Continuous Cover Forestry (CCF) approved methods, to be carried out by a forester with relevant CCF experience.*

*For the same ecological mitigation reasons and for reasons of scheme ineligibility*

7. *Exclude the area of land previously under forest on the northern elevated part of the site where there is ongoing natural regeneration of woodland species such as Birch, Rowan, and Willow. Land previously under forest is not eligible for the scheme and not agricultural land. Forestry schemes Manual 2011 Chapter 6 Section 6.1.*
8. *Table 1 provides ITM coordinates for the boundary of excluded land previously under forest. Figure 1 provides a map of the excluded areas and wetland ABE.*
9. *The excluded areas of species rich grassland and land previously under forest naturally regenerating can not form part of the form2 application. They are not eligible as ABE.*

*For Reasons of good forest practice and mitigating impacts on biodiversity*

10. *Drainage is refused including Mound drains. Chemical Herbicide Weed Control is refused. Manual Weed control is to be used only.*
11. *Scenario 2 of the Native Woodland Scheme Framework Circular 05/18 is to be used. Sessile Oak is more appropriate to the soils.*

The decision to grant the licence is subject to one appeal. The grounds of appeal broadly are:

1. Lack of compliance with Article 6 (3) of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.
  - a. The Stage 1 AA determination cannot be legally valid as there is potential underground hydrological connectivity to SACs with aquatic qualifying interests.
  - b. The Stage 1 AA determination cannot be legally valid as there is potential surface water hydrological connectivity to an SPA with aquatic qualifying interests.
  - c. Failure to identify source of a significant effect in AA screening
2. This approval and its associated operations threaten the achievement of the objectives set for the underlying water body and waterbodies under the River Basin Management Plan for Ireland 2018 – 2021.
3. Adherence to Article 10 of the EU Habitats Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.
4. Breach of Article 2(1) and 4(3) of the EIA Directive 2014/52/EU.

5. Failure to meet the objectives of the National Biodiversity Action Plan 2017 – 2021.
6. Non compliance with the objectives of the All Ireland Pollinator Plan 2015 – 2020.
7. Inadequate consideration of the potential of the site for use by species protected under Annex IV of the Habitats Directive
8. The licence conditions do not provide a system of protection for all species of birds as would be required by Article 5 of the Birds Directive and referred to in Article 1 of that Directive.
9. The Greenan/Greenaward townland Boundary which is a cultural/historical has not been identified in the application, contrary to the requirements of the EIA Directive. The relevant boundary is indicated as a hedgerow. Townland boundary hedges should require the full 7m setback recommended in the BIOFOREST Report to prevent degradation. The Archaeological report does not address the cultural aspects of the townland names. Greenan being a sunny place and the adjacent Garrynaboile being the field of the booley farming.
10. The Areas for Biodiversity Enhancement selected do not provide the best opportunity for enhancing the biodiversity within the forest area. See Circular 10/2009
11. The application indicates there will be woody weed removal. At the time of a Biodiversity Crisis this is an archaic term. The area concerned has not been mapped and no inventory of the species by area has been included and no justification provided as to why this vegetation needs to be removed. If adequate justification cannot be provided this area should remain unplanted. This Ground of Appeal must be considered in the context of Ground 8.
12. Removal of habitats prior to application submission
13. Failure of the FS to provide without charge, records which it is legally obliged to provide.
14. Failure to comply with the Meath County Development Plan 2013 – 2019
15. Land is unsuitable.

In a statement to the FAC, the DAFM submitted that the decision was issued in accordance with DAFM procedures, Statutory Instrument 191/2017 and the 2014 Forestry Act. The DAFM Inspector submitted details on the process followed with regard to Appropriate Assessment Screening, that the application was referred internally for ecological review with an ecological report produced, which was taken on board in the approval conditions, regarding referral to the EPA the location was not observed to be on acid sensitive area, regarding future operations such as harvesting and road alignment and development that these operations come under separate licencing operations and that regard was given in the EIA screening to the future development of the forest and the future operations and associated developments that arise and that regard was also given to the species mix, the forestry objectives per GPC category and the ground preparation and works associated with enabling establishment and that it was considered that the environmental impacts arising from these elements of the project were relatively low compared to more intensive plantation developments and were acceptable. A DAFM Ecologist and Archaeologist also submitted responses to the grounds of appeal as relevant to them.

In addressing the grounds of appeal, the FAC considered, in the first instance, as to the completeness of the assessment to determine for EIA requirements. In considering this aspect, the FAC notes that the EU EIA 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. 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 decision under appeal relates to afforestation of 15.25 hectares, so is sub threshold for mandatory EIA as set in Irish Regulations. The DAFM recorded a consideration of the application across a range of criteria, including water, soil, terrain, slope, designated areas, archaeology, landscape and cumulative effects, and determined that the project was not required to undergo the EIA process. In this consideration, it did recommend that it be assessed by a DAFM Ecologist. A DAFM Ecologist following site visits produced a report with an ecological evaluation and concluded with a number of recommendations; these recommendations were later attached as conditions to the licence approval. The FAC having considered all of the evidence before it, considered that the DAFM had sufficient information in respect of the characteristics of the proposal, the location, and types and characteristics of potential impacts, in order to make a determination as to whether an EIA is required and the FAC is not satisfied that a serious or significant error or a series of errors was made by the DAFM in relation to their EIA consideration and concurs with the conclusion.

In addressing the Appropriate Assessment grounds of appeal, the FAC considered, 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 and projects, having regard to the conservation objectives of that designated site. The DAFM, in this case, undertook a Stage 1 screening, and found ten European sites within 15 km of the proposal area, and that there was no reason to extend the zone of influence in this case. The sites identified were Garriskil Bog SAC 000679, Lough Bane And Lough Glass SAC 002120, Lough Derravaragh SPA 004043, Lough Kinale and Derragh Lough SPA 004061, Lough Lene SAC 002121, Lough Sheelin SPA 004065, Moneybeg And Clareisland Bogs SAC 002340, River Boyne And River Blackwater SAC 002299, River Boyne and River Blackwater SPA 004232 and White Lough, Ben Loughs And Lough Doo SAC 001810. The FAC consulted publicly available information from the NPWS and EPA and identified the same sites. The DAFM considered each of the sites in turn and listed the associated qualifying interests and conservation objectives and the reason for their screening conclusion for each site in their Inspector Certification document. The DAFM also undertook and recorded a consideration of other plans and projects, including forestry and non-forestry projects, on the week of 11<sup>th</sup> September 2020 in a stand-alone document, and they concluded that the project, when considered in combination with other plans and projects, will not give rise to the possibility of an effect on the Natura sites listed. An Appropriate Assessment Screening Determination document on file included a review of the Inspector’s screening recommendations and upheld the screen out recommendations for each of the European sites with additional reasoning given; this document was signed by a DAFM Ecologist on 18<sup>th</sup> September 2020.

The grounds of appeal include that there is potential underground hydrological connectivity to SACs with aquatic qualifying interests, outlining distances to the White Lough, Ben Loughs And Lough Doo SAC 001810 and Lough Bane And Lough Glass SAC 002120, that GSI maps indicate for the proposed site that rock is at or near the surface or karst and extrapolated as to aspects with regard to bedrock, outlined the presence of other features in the vicinity of the proposed site and these two SACs and that the western part of the site is in the Lough Lene-Adeel Stream\_010 River Sub Basin. In addressing these grounds, the FAC notes the DAFM Ecologist, in response to this ground of appeal, states that the assessment of likelihood of significant effect took into account the qualifying interests, the lack of a surface water hydrological link to the SACs and the nature of the proposed project – native woodland establishment project which will involve invert mounding and pit planting on mineral soil, no drainage, fertiliser nor herbicide control will be applied, it was determined there would be no significant effect, the application was also field inspected. The FAC notes that the ecologist's assessment benefitted from a field visit in 2017 (for a previous application) and a site inspection and walkover survey carried out with another DAFM ecologist in July 2020 in addition to a third visit with the District Inspector on 3<sup>rd</sup> September 2020.

The reason for screening out the SAC's specifically mentioned in the grounds of appeal by the DAFM Inspector is given as "other factors, lack of any hydrological connection that can deliver sediment" and the review undertaken by the DAFM ecologist in the Appropriate Assessment screening determination upheld this recommendation, adding the distance to each Natura 2000 site; the position of the proposal relative to the sites and the lack of any hydrological connection. The low impact nature of the proposal, including no drainage, no removal of woody weeds, no fertilizer and no herbicide use and establishment of Native Woodland is referred to in the ecologist's statement that addresses each grounds in turn. The FAC notes the DAFM ecologist report (dated 15<sup>th</sup> September 2020) that addresses the landscape setting of the proposal, including the presence of candidate TBan NHA, loughs, fens and other wetland habitats. The FAC is not satisfied that a serious error was made in regard to this aspect of the grounds of appeal.

It is submitted also in the grounds of appeal the presence of a pond in the eastern corner of the site that flows into a wetland complex land adjacent which drains out through an outlet watercourse that flows into the River Inny, and which ultimately drains into Lough Sheelin SPA. The biomaps on file identified a wet patch, identified as A, roughly equidistant from the eastern and western boundaries but closer to the northern boundary than the southern boundary of the site. No outlet from this wet patch or other water feature was shown on the site. The additional reasoning for screening out Lough Sheelin SPA included that although the project site is within the same catchment, there is no hydrological link to Lough Sheelin, therefore no possibility of impact on 'Wetlands' which are also listed as QIs for this SPA. Furthermore, it stated that the SPA is located 11.4km to the north-west of the project site, that the application site does not provide suitable foraging or breeding habitat for the wetland birds listed in the SCIs. The FAC is not satisfied that a serious error was made in regard to this aspect of the grounds of appeal.

The grounds of appeal also include failure to identify source of a significant effect in Appropriate Assessment screening; referring to items such as landslide susceptibility and the absence of in-combination assessment particularly with regard to applications on the same property including a felling licence (TFL00122618) and a Native Woodland Conservation Scheme (NWS1121). The DAFM Ecologist

statement in response to this ground of appeal includes “GSI landslide susceptibility maps indicate the risk is moderate high, these maps were not consulted during the pre-approval process, however due to the low impact ground preparation and no drainage and additional conditions applied, soil erosion was not considered a likely significant impact”. The statement attested to the in-combination assessment, which included a nearby felling licence (TFL00122618) and the Native Woodland Conservation Scheme (NWS1121). The FAC is not satisfied that a serious error was made in regard to these grounds of appeal relating to Appropriate Assessment.

The FAC considered the contention in the grounds of appeal that this approval and its associated operations threaten the achievement of the objectives set for the underlying water body and waterbodies under the River Basin Management Plan for Ireland 2018 – 2021. In doing so, the FAC reviewed EPA maps and data and find the proposal area is in both the Inny\_020 River Sub Basin and Lough Lene-Adeel Stream\_010 River Sub Basin. The Inny\_020 River Sub Basin is in the Inny (Shannon)\_SC\_010 and the Upper Shannon WFD Catchment (ref #26F) and its river waterbody WFD status is moderate (2013 – 2018).. The Lough Lene-Adeel Stream\_010 is in the Deel(Raharney)\_SC\_010 and the Boyne WFD Catchment (ref #7) and its river waterbody WFD status is moderate (2013 – 2018). Agriculture is listed as a pressure for both the Inny\_020 and Lough Lene-Adeel Stream\_010, however forestry is not. The DAFM referred the proposal externally to the NPWS, An Taisce and Meath County Council, with only a response from Meath County Council on file, who raised no objection to the proposed works. The DAFM included as a condition on the licence that drainage is refused, including mound drains, chemical herbicide weed control is refused, manual weed control is to be used only. The percentage forest cover figure for the Inny\_020 River Sub Basin and Lough Lene-Adeel Stream\_010 River Sub Basin was identified as 8% and 7% respectively, and lower than the national average at 11%, in the in-combination statement, this was similar to the 6% forest cover current figure in the underlying waterbody (or waterbodies) recorded in the Assessment to Determine EIA Requirement. In summary based on the information available to it and having regard to the nature of the proposal, namely afforestation of 15.25 hectares, the location of the proposed road and the conditions under which it is licenced, the FAC is not satisfied that there was inadequate consideration of the objectives of the WFD River Basin Management Plan by DAFM in their decision making and is not satisfied that the proposal poses a significant threat to water quality.

The grounds of appeal included lack of adherence to Article 10 of the EU Habitats Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, referencing the Annex II species, Marsh Fritillary Butterfly. The DAFM Ecologist in her statement on this grounds, submitted that the site was field inspected twice in the summer months of 2020, which is the recommended period of the year to survey grasslands, that localised areas of species rich grassland were observed mainly on the north eastern slope of the site, and while there was good diversity of species, it was very limited in extent, and did not conform to Annex I habitats, which DAFM guidelines do not permit planting on, and the grassland on top of the hill and on the western slopes was more limited in terms of species diversity. It was also submitted that the food plant of the Marsh Fritillary Butterfly Devils Bit Scacious was not found therefore the habitat was not considered suitable for the species and lastly that there was evidence of recent scrub removal on the eastern and western slopes of the site. The record of the decision, shows an ecology report was completed by the DAFM Ecologist after her two site visits, this included sections on; background to file, ecological

evaluation, potential impacts and recommendations. The content of the report included that although an invertebrate survey was not done, a few very localised patches of Devils bit scabious (*Succisa pratensis*) (food plant of Marsh Fritillary butterfly (*Euphydryas aurinia*)) was noted on the steep northern slope, but overall the habitat is not suitable for Marsh Fritillary. One of the recommendations in the report was to exclude the species-rich grassland area on the steep north-east facing slope as shown on attached map, this covers an area approx. 50m x 300m, this will enable this area to be grazed and will help to maintain/enhance the species diversity of the grassland and continue to provide habitat for associated invertebrates and birds. This recommendation was included as a condition of approval. The FAC having regard to the record of the decision, including the ecology report, the assessment to determine EIA requirement which included consideration of designated and non designated habitats, Appropriate Assessment screening, that DAFM conducted site visits, the nature, scale and location of the proposal and the conditions under which the project is to be carried out, is not satisfied that the DAFM erred in its processing of the licence application in this case as it relates to these grounds in the appeal.

In relation to the grounds of appeal of a breach of Article 2(1) and 4(3) of the EIA Directive 2014/52/EU, the DAFM Ecologist in her statement on this grounds, submitted that the additional conditions on the licence included exclusion of an area of species rich grassland from the application and in addition there would be no woody weed removal, an area of regenerating scrub on north-eastern slope will be retained and no herbicide or fertiliser use. That the location of access routes for future operations will be considered if and when a licence application is submitted. Landslide risk is not considered significant due to the type of ground preparation. The ground preparation on the slopes is by hand pit planting. Ground preparation elsewhere by invert mounding or pit planting. Potential impacts on the nearby wetlands (non-designated but include a mosaic of wetland habitats and species of high biodiversity value) were considered not likely due to the absence of surface water hydrological links such as streams, relevant watercourses and the nature of the proposed native woodland establishment project which will involve invert mounding and pit planting on mineral soil. No drainage, fertiliser or herbicide will be applied. The FAC considered that the proposal which is a native woodland establishment proposal with no fertiliser or chemical herbicide control, and having regard to the record of the decision, the submitted grounds of appeal, and the conditions under which the project is to be carried out, is not satisfied that the DAFM erred in its processing of the licence application in this case as it relates to this grounds in the appeal.

In relation to the failure to meet the objectives of the National Biodiversity Action Plan 2017 – 2021, the DAFM Ecologist in her statement on this grounds, submitted as part of it that the wetland area and surrounding buffer would remain unplanted, that an area of species rich grassland was excluded as a condition of approval and that the reduction in species diversity as a result of agricultural improvement on the land, mentioned by the appellant in the grounds, was not related to the current application. In relation to the grounds of appeal of non compliance with the objectives of the All Ireland Pollinator Plan 2015 – 2020, the DAFM Ecologist in her statement on this grounds, submitted that the species rich grassland is being excluded from the approval as opposed to being retained as an Area for Biodiversity Enhancement (ABE) so that it can be grazed and maintain the habitat as suitable pollinators associated with grassland. Having regard to the record of the decision, the submitted grounds of appeal, the nature, scale and location of the proposal and the conditions under which the project is to be carried out, the FAC

is not satisfied that the DAFM erred in its processing of the licence application in this case as it relates to these grounds in the appeal.

In relation to the grounds of appeal of inadequate consideration of the potential of the site for use by species protected under Annex IV of the Habitats Directive, the DAFM Ecologist in her statement on this grounds, submitted as part of it that the site is not suitable for roosting bats but referred to grassland habitat suitable as foraging habitat for some bat species to hunt over and retention of existing hedgerows and scrub will avoid disturbance and establishment of native woodland will create future foraging habitat. The DAFM undertook an Appropriate Assessment screening, an assessment to determine EIA requirement, an ecology evaluation and report following site visits and having considered the evidence the FAC is not satisfied that a serious error was made in regard to this grounds of appeal.

In relation to the submitted grounds of appeal that the licence conditions do not provide a system of protection for all species of birds as would be required by Article 5 of the Birds Directive, the DAFM Ecologist in her statement on this grounds, submitted as part of it that through Article 5 of the Directive there is provision for the establishment of a general scheme of protection for all wild birds including through the breeding season, that the current management of much of the grassland is such that it does not appear to be ideal for ground nesting birds, that while there would be a gradual loss of grassland habitat as the trees proposed for planting mature, the retention of scrub on the site is a condition of grant aid, which will ensure no clearance of this habitat, and therefore will be available for certain birds. The FAC in its considerations notes that the granting of a forest road licence does not exempt the holder from meeting any legal requirements set out in any other statute. The FAC further considered the nature, scale and location of the proposal, and the conditions of the licence and determined based on the evidence before it, that it is not satisfied that the DAFM erred in its processing of the licence application in this case as it relates to this grounds in the appeal, nor are additional conditions of the nature described by the appellant be attached to the licence.

In relation to the submitted grounds of appeal that the Areas for Biodiversity Enhancement selected do not provide the best opportunity for enhancing the biodiversity within the forest area, see Circular 10/2009, the DAFM Ecologist in her statement on this ground, submitted the areas selected for biodiversity enhancement include habitats of higher biodiversity value and were considered appropriate, within the requirements of the Native Woodland Establishment Scheme. In relation to the submitted grounds of appeal regarding woody weed removal, the DAFM Ecologist in her statement on this grounds, submitted the additional condition attached to the licence, as follows;

- *Exclude the area of land previously under forest on the northern elevated part of the site where there is ongoing natural regeneration of woodland species such as Birch, Rowan, and Willow. Land previously under forest is not eligible for the scheme and not agricultural land. Forestry schemes Manual 2011 Chapter 6 Section 6.1.*

In relation to the submitted grounds of appeal regarding removal of habitats prior to application submission, the DAFM Ecologist in her statement on this grounds, submitted that two field visits confirmed the presence of regenerating scrub on the eastern and western site slopes and referred to the additional licence condition to exclude the area of land previously under forest on the northern elevated

part of the site where there is ongoing natural regeneration of woodland species such as Birch, Rowan, and Willow. Having regard to the record of the decision, including the ecology report, the submitted grounds of appeal, the nature, scale and location of the proposal and the conditions under which the project is to be carried out, the FAC is not satisfied that the DAFM erred in its processing of the licence application in this case as it relates to these grounds in the appeal.

In relation to the submitted grounds of appeal with regard to the Greenan/Greenaward townland boundary and that the Archaeological report does not address the cultural aspects of the townland names, the DAFM Archaeologist made a statement on this ground, submitting as part of it that "while townland boundaries are always considered in terms of their historical and cultural significance when compiling archaeological reports, specific conditions (including exclusion zones/setbacks etc) relating to the same are generally reserved for instances where there are significant man-made structures or earthworks demarcating the boundary and/or there is particular cultural or historical significance to the boundary in question. From examination of the aerial photography, a large portion of the townland boundary has been removed and is only visible as a small drain. The remainder of the boundary appears to consist of hedgerow. Notwithstanding the above, in this instance, I would be willing to adopt a precautionary approach and amend my recommendations to include a 5m setback/unplanted buffer zone along the line of the townland boundary (as would have been applied in the event that there was substantial earthwork and/or a particular cultural or historical significance to the boundary in question) however I would also note that the biodiversity map submitted with the original application has already committed to leaving a 5m setback along this boundary." The cultural aspect of the townland names were addressed also with it submitted that Greenan means sunny place, and is not indicative of the presence of any particular unrecorded archaeological features or structures which may have survived in the area, and Garrynaboile townland is located some 375m from the application area and there is no evidence of booley style fields visible in the development area itself. The application was referred internally in the DAFM to an Archaeologist who produced an Archaeological report. The report outlined that: "*The area proposed for afforestation does not contain any Recorded Monuments. The nearest such monument is an earthwork (ME015-057) located some 120 meters northwest of the proposed development area.*" The archaeological conditions proposed in the report related to adherence to guidelines and actions to be followed if previously unrecorded archaeological site or undiscovered artefacts were found. Having regard to the record of the decision, the submitted grounds of appeal, the submitted application including biomap, the location of the proposal, the conditions under which the project is to be carried out and DAFM archaeological guidelines, the FAC is not satisfied that the DAFM erred in its processing of the licence application in this case as it relates to this grounds in the appeal.

In relation to the submitted grounds of appeal regarding failure of the Forest Service to provide without charge, records which it is legally obliged to provide, the FAC considered this matter was outside of its remit.

In relation to the submitted grounds of appeal regarding failure to comply with the Meath County Development Plan 2013 – 2019 and referring to Meath County Council policies and objectives on biodiversity, ecology, and to encourage sustainable forestry development and promote forestry

development of appropriate scale and character whilst ensuring the development has no negative impacts on the countryside and environment; the proposal was referred by DAFM to Meath County Council, who responded with observations but stated had no objection to the stated works. In addition, the proposal's potential to contribute to in-combination effects on European sites was considered. This in-combination assessment included other plans and projects in the vicinity of the site and listed objectives and policies of the Meath County Development Plan 2013 – 2019. The in-combination report concluded with *“DAFM deems that this CN85535 project, when considered in combination with other plans and projects, will not give rise to the possibility of an effect on the Natura sites listed:...”*. The application was assessed by a DAFM Ecologist with an ecology report produced with recommendations and these were included as part of the conditions of the licence. An assessment to determine EIA requirements was also conducted. The FAC, having considered all of the evidence, is not satisfied that the DAFM erred in its processing of the licence application in this case as it relates to this grounds in the appeal.

In relation to the submitted grounds of appeal that the land is unsuitable, the DAFM Ecologist in her statement on this grounds, submitted that the application site meets the criteria of the Land Types for Afforestation (2017) for land that is suitable for planting under the DAFM Afforestation Scheme. The DAFM undertook field and desk assessment of the proposal, an Appropriate Assessment screening, an assessment to determine EIA requirement, an ecology evaluation and report and the FAC having considered all of the evidence is not satisfied that a serious error was made in regard to this grounds of appeal.

In considering the appeal in this case the FAC had regard to the record of the decision, the submitted grounds of appeal and all submissions received. The FAC is satisfied that no serious or significant error was made in the making of the decision in this case and is therefore affirming the decision of the Minister regarding licence CN85535 in line with Article 14B of the Forestry Appeals Act 2001 as amended and considers that the proposed development would be consistent with Government policy and Good Forestry Practice

Yours sincerely,

A large black rectangular redaction box covering the signature of the official.

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Myles Mac Donnadhá, On Behalf of the Forestry Appeals Committee