



**An Coiste um Achomhairc
Foraolseachta**
Forestry Appeals Committee

09 April 2020

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Our ref: FAC 006/2020

Subject: Appeal in relation to felling licence TFL00369319

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 felling licence TFL00369319.

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 TFL00369319 was granted by the Department on 10 December 2019.

Hearing

A hearing of appeal 006/2020 was conducted by the FAC on 07 April 2020.

FAC Members:

Mr Des Johnson (Chairperson), Mr Vincent Upton, Ms Mary Lawlor
and Mr Pat Coman

Decision

Having regard to the evidence before it and the following considerations, the FAC has decided to confirm the decision of the Minister regarding licence TFL00369319:

In its statement to the FAC received on 31 October 2019, the Department of Agriculture, Food and the Marine stated:

There are two Natura 2000 sites located within 15km of this proposal - Lough Oughter and Associated Loughs SAC 000007 & Lough Oughter SPA 004049. There is no hydrological connection to any of these Natura sites. As this is a conifer plantation and due to distance, it

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can be discounted that the proposal will have any influence on foraging habitats or disturbance of any of QIs (Bird species) listed in the SPA.

In light of the lack of hydrological connection and distance, DAFM is satisfied that no impacts will occur as a result of this proposal. An in-combination assessment was also carried out to assess forest and non forest projects in the area — It was concluded that no in combination impacts will occur.

The decision to issue the licence pertains to 6.91 hectares of felling and reforestation at Lisgilllock Glebe, Co Leitrim. The licence lands are in one plot. The application details that windrowing and mounding are to be used at reforestation and there is no evidence of a change in land use. The evidence shows a forest road in place and that brash mats are to be otherwise used along extraction routes. Site elevations are between 70m and 80m, the site has a very modest slope. There is a public road along the site's eastern boundary. The project site has no direct hydrological connectivity with an EPA watercourse and in the locality Cloone Lough is just over 400m NNE of the site, as well there are rivers east and west of the site at 250m and more of distance and both flow north to south.

The grounds of appeal include that the Department of Agriculture Food and the Marine in its Screening for Appropriate Assessment found that there were Natura sites within the 15km zone of impact, and that a trigger for the requirement for Appropriate Assessment is the development may have an effect. Therefore, there may be an impact. The grounds also include that it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site. All grounds have been considered.

The project site is not shown to be necessary for the management of any European site. Lough Oughter and Associated Loughs SAC is 12.5 km from the project and Lough Oughter Complex SPA is at 14.7 km, and there is no hydrological connection with the project site. Lough Oughter Complex SPA lists waterfowl and wetlands as qualifying interests and Lough Oughter and Associated Loughs SAC lists natural eutrophic lakes and vegetation, bog woodland and the otter as qualifying interests. While the SPA is hydrologically connected with the Cloone River at 14.8 km, tributaries are at least 250m from the project site and across public roads. Also the EPA website identifies the project is located within the Upper Shannon catchment, and the Lough Oughter and Associated Loughs SAC and Lough Oughter Complex SPA are within the Erne catchment. With regards the project site, with no hydrological connectivity and with these distances of separation, no species of interest (birds or wildlife) or habitats listed for the European sites have a possibility of being significantly affected, this includes consideration of unsuitability to wetland species and foraging range of the qualifying interest species. On the basis of the foregoing the FAC concluded that the felling and reforestation associated with TFL000369310 will not give rise to any possibility of a significant effect on the European sites.

The FAC looked at other plans and projects in the area. There have been a small number of planning permissions sought and granted in the area per Leitrim County Council's planning web site. The project site is part of a larger plantation of 20 ha of mature and semi mature forestry, outside of this the project site does not adjoin other forestry. Other forestry projects in Lisgilllock Glebe were examined for as well as those within include Sunnaghconner, Aghalough and Bellakiltyfea. None of the projects identified connect the project site to any pathway to any European site and none are of a nature so as to cause the project in combination with them to create the possibility of a significant



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effect on a European site. There is no likelihood of significant effects on the environment arising from the proposed development alone or in combination with other plans and projects

From the information submitted with the application, together with supplementary information submitted by the parties during the course of the appeal and availing of information from publicly available websites, an Appropriate Assessment Screening, in accordance with the provisions of Article 6(3) of the Habitats Directive, was carried out by the Committee without reference to any measures designed to mitigate possible effects on any Natura 2000 sites. A copy of the screening will be attached to the public file. The FAC considered that none of the conditions attached to licence TFL00369319 require measures which are designed to mitigate effects on any European site in this instance.

Directive (2011/92/EU), as amended by the 2014 EIA Directive (2014/52/EU), lists, in Annex II under 1(d), *initial afforestation and deforestation for the purposes of conversion to another type of land use*. The provisions of the Directive are transposed into Irish forestry legislation by SI No.191 of 2017. In this instance there is no conversion of the project site to another type of land use, the licence TFL00369319 includes for the replanting of the site. The proposal does not fall within the description of "initial afforestation" nor does it entail conversion to another type of land use. Furthermore, the proposed development does not involve works which, by themselves fall with a class listed within the EIA Directive. In any event the FAC considers that there are adequate details before it, and available to it, in respect of the description of the proposal and the receiving environment in order to determine the likelihood (if any) of significant effects on the proposed project, alone and in combination with other projects and plans, on the environment.

The FAC also concluded that the proposal is consistent with Government policy and Good Forestry practice.

Yours sincerely,

Pat Coman, on behalf of the Forestry Appeals Committee

FAC 006/2020 TFL000369319 felling licence for 6.91 hectares at Lisgillock Glebe, Co Leitrim

07 April 2020

Appropriate Assessment Screening

The decision to issue the licence pertains to 6.91 hectares of felling (clearfell) at Lisgillock Glebe, Co Leitrim - planned for 2022. The licence lands are in one plot 154 and is a GPC3 plantation. The application details evidence that windrowing and mounding are to be used at reforestation and there is no evidence of a change in land use. The evidence provided shows a forest road in place and per the application brush mats are to be otherwise used along extraction routes. Site elevations are between 70m and 80m, the site has a very modest slope. There is a public road along all of the site's eastern boundary. The project site has no direct hydrological connectivity with an EPA watercourse and in the locality Cloone Lough is just NNE of the site (400-500m), as well there are rivers east and west of the site at 250m and more of distance.

European Sites;

Site Type	Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
SAC	000007	Lough Oughter and Associated Loughs SAC	12540.23 distance	Habitats Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation Bog woodland Species Otter
SPA	004049	Lough Oughter Complex SPA	14701.58 distance	Birds Wigeon Whooper Swan Great Crested Grebe Habitats Wetlands

The project site is not necessary for the management of any European site. There are two Natura sites within 15km which are listed above along with their direct distance to the site and conservation objectives, neither European site has a hydrological connection to the project site. Lough Oughter Complex SPA lists water fowl and wetlands as qualifying interests and Lough Oughter and Associated Loughs SAC lists natural eutrophic lakes and vegetation, bog woodland and the otter as qualifying interests, the SPA is hydrologically connected with the Cloone River at 14.8 km and whose tributaries are just over 250m from the site and across public roads.

Project site is in conifer forestry, site is at 70m to 80m and has no connectivity to either of the above EU sites and no species of interest (birds or wildlife) listed for the sites would be affected in any way by the site based on the current cropping, site unsuitability to wetland species and foraging range of the qualifying interest species.

The site is within the Upper Shannon Catchment and Cloone (Lough Rinn) sub-catchment. There are no watercourses on this slightly elevated site and the Cloone river system flows N to S at a distance of some 250m+ from the site at its east and at its west, joining south of the site and flowing southward from then. The Cloone River has a hydrological connection of 27 km from this nearest point to Lough Forbes Complex SAC and 20 km to Ballykenny Fisherstown Bog SPA (qualifying interest is the White fronted Goose). However, in addition to physical separation distance the rivers are also across public roads from the site and the project TFL000369319 poses no discernible possibility of a significant effect to any European site. There are also no conditions attached to the licence that are considered mitigation measures for any European site.

On the basis of the foregoing the FAC concludes that the felling associated with TFL000369310 will not give rise to any possible significant effect on the European sites.

In combination

The FAC looked at other plans and projects in the area of the project site. The project site is part of a larger plantation of 20 ha of mature and semi mature forestry. Outside of this the project site does not adjoin other forestry. Other forestry projects include a licence granted in early 2019 LM10-FLOO31 for thinning of 22.92 ha, also Nov 2019 licences for 21.34 ha of afforestation CN84222 and 1.32 ha of afforestation CN8446 within Lisgillock Glebe, also in neighbouring town lands; Sunnaghconner 8.71 ha of clear-fell August 2019 TFL00372619, 2.97 ha afforestation CN79178 October 2017; Aghalough CN85364 8.23 HA Afforestation December 2019, 18.41 ha thinning tfl00319219 May 2019; Bellakiltyfea 9.74 ha thinning TFL00301819 April 2019 and 6.68 ha thinning TFL00205918 October 2018. Each of these projects have been considered by the FAC and none connect the project site to any pathway or source to any European site and none are of a nature so as to cause the project in combination with them to create the possibility of a significant effect on a European site.

The area is largely rural in nature with few planning permissions or other projects developed or being developed. There have been a number of planning permissions sought and granted in the area per Leitrim County Council's planning web site, the most recent a 2014 retention of a septic tank system revision at Tooma TD (14/125) a short distance west of the project site. A small number of other planning permissions in the vicinity were granted in 2007 or prior and included standalone dwellings and an agricultural use shed (07/789).

The nature and scale of the proposal and other plans and projects identified in the area would not result in cumulative impacts on any European site. The FAC concluded that this proposed felling/replanting, alone or in combination with other plans or projects, would not result in the possibility of a significant effect on any European site.

Environmental Impact Assessment Examination

Directive (2011/92/EU), as amended by the 2014 EIA Directive (2014/52/EU), lists, in Annex II under 1(d), ***initial afforestation and deforestation for the purposes of conversion to another type of land use***. The provisions of the Directive are transposed into Irish forestry legislation by SI No.191 of 2017. In this instance there is no conversion of the project site to another type of land use, the licence TFL000369319 includes for the replanting of the site. The proposal does not fall within the description of "initial afforestation" nor does it entail conversion to another type of land use. Furthermore, the proposed development does not involve works which, by themselves fall with a class listed within the EIA Directive.

The FAC considers that there are adequate details before it, and available to it, in respect of the description of the proposal and the receiving environment in order to determine the likelihood (if any) of significant effects on the proposed project, alone and in combination with other projects and plans, on the environment.

The area is rural and agricultural in nature with existing areas of commercial, managed forests in the vicinity. The area is not designated as landscape sensitive and per Leitrim County Council has high capacity for afforestation. The impact of the proposed felling at this location on the landscape would not be significant and replanting is part of the project. In conclusion and with reference to the nature and location the FAC does not consider that this felling will have a significant effect on the environment nor that the submission of the EIA Report is required.

Pat Coman on behalf of the FAC 07 April 2020

A handwritten signature in black ink, appearing to be 'P. Coman', written over the typed name.

