



An Coiste um Achomhairc
Foraoiseachta
Forestry Appeals Committee

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17th April, 2020

Subject: Appeal FAC035/2020 TFL000370719 – Felling licence

Ratharoon West, Co.Cork

Dear [REDACTED]

I refer to the appeal to the Forestry Appeals Committee (FAC) in relation to the above licence issued by the Minister for Agriculture, Food and the Marine. 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 all parties to the appeal.

Background

Felling Licence TFL000370719 for 3.64 hectares was approved by the Department of Agriculture, Food and the Marine on 2nd January, 2020.

Hearing

A hearing was conducted by the FAC on the 7th April, 2020.

In attendance at the hearing:

FAC Members: Mr. Des Johnson (Chairperson), Mr. Pat Coman, Ms. Mary Lawlor
& Mr Vincent Upton

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Decision

Having regard to the evidence, before it and, in particular, the considerations and reasoning set out below, the FAC has decided to confirm the decision of the Minister regarding licence TFL00370719.

The licence was issued with the following conditions:

All guidelines to apply.

Additional conditions: Adhere to Harvest Plan submitted 6th November, 2019.

Strictly adhere to the Standards for Felling & Reforestation (October 2019).

The Department of Agriculture, Food and the Marine's response included as follows;

There are various forestry-related projects in the townlands of Ratharoon West (either submitted and still under evaluation, or with valid licences/approvals in place) as follows

:-. Afforestation: CN82891 (2018), CN65265 (2013), CN66793 (2013) Forest Road:

CN81854 (2018)

Felling Licence: TFL00047317 (2017), TFL00047317 (2018) Coillte Felling Licence:

CK25-FL0048 (2019).

The potential for the proposed project to contribute to an in-combination impact on European sites was considered by the Department of Agriculture, Food & the Marine (DAFM).

The following online planning systems were consulted, focusing on the area of the Townland(s) containing the project (i.e. Ratharoon West):-Cork County Council, An Bord Pleanála and the EPA website. The DAFM concluded that individually, the project does not represent a source, or if so, no pathway for an adverse effect on any European site exists. Consequently, it deems that there is no potential for the project to contribute to any such effects, when considered in-combination with other plans and projects,

The submitted grounds of appeal relate to the legality of the appropriate assessment undertaken by the DAFM. Specific reference is made to the location of Natura sites within the 15km zone of impact and that this is a trigger for the requirement for an Appropriate Assessment as the development may have an effect/impact.

The statement provided by the DAFM in response to the appeal states that there is no possibility of a significant effect on any Natura site, and that an Appropriate Assessment is not required. There is no hydrological connection or obvious threat to any Natura site.

Before making its decision the FAC carried out a Stage 1 screening in accordance with the provisions of the Habitats Directive. There are six European sites within 15kms of the proposed site, notably Courtmacsherry Estuary SAC, Courtmacsherry Bay SPA, Clonakilty Bay SPA, Clonakilty Bay SAC, Old Head of Kinsale SPA and Seven Heads SPA. The site comprises of a small area of 3.64ha of felling and reforestation. The soil type underlying the project area is predominantly brown earth in nature. The slope is flat to moderate (<15%). The project area is crossed by existing drains that lead to an area of broadleaf woodland outside of the proposal. A

stream runs through this broadleaf woodland and this flows east and joins the Bandon river close to Kinsale at the estuary. The project site has no hydrological connection to a Natura site.

Having regard to the nature and scale of the proposed development, the existing pattern of development in the area together with identified permitted projects, separation distances to the European sites and the absence of hydrological connectivity, the FAC concluded that the proposed development by itself, or in combination with other projects and land uses in the area, would not have any significant effect on European sites, having regard to the conservation objectives for those sites.

The FAC considered that none of the conditions attached to the licence require measures which are designed to avoid or reduce effects on a European site, in this instance.

The FAC preliminary examination under environmental impact assessment and screening for Appropriate Assessment of the possibility of significant effects on Natura 2000 sites are available on the public file.

Before making its decision, the FAC considered all of the information submitted with the application, the processing of the application by the DAFM including its screening for Appropriate Assessment, the grounds of appeal and submissions and observations received.

Yours sincerely



Pat Coman on behalf of the Forestry Appeals Committee



FAC035/2020 TFL00370719 - Felling licence Ratharoon West, Cork - 8th April, 2020

Appropriate Assessment Screening

The decision relates to a licence for the felling and reforestation of 3.64 hectares and the site is described with a slope which is flat to moderate (<15%) with a soil type of brown earth in nature. The forest is currently composed of stands of Sitka spruce, Norway spruce and Japanese larch but it is proposed that the site will be replanted with Pedunculate Oak and a mixture of other broadleaves. The project proposal is of a small scale. The project area is crossed by existing drains that lead to an area of broadleaf woodland outside of the proposal. A stream runs through this broadleaf woodland that flows east and joins the Bandon close to Kinsale at the estuary. A number of other forest licences for afforestation, felling and road building have been granted in the wider area. The areas within the immediate vicinity of the forest are comprised of agricultural fields. An existing track runs from the forest to the north to the public road.

There are six European sites within 15kms of the proposed site, Courtmacsherry Estuary SAC, Courtmacsherry Bay SPA, Clonakilty Bay SPA, Clonakilty Bay SAC, Old Head of Kinsale SPA and Seven Heads SPA.

Site Type	Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
SAC	001230	Courtmacsherry Estuary SAC	3752.37	Habitats 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1220 Perennial vegetation of stony banks 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (Glaucopuccinellietalia maritimae) 1410 Mediterranean salt meadows (Juncetalia maritimi) 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*
SAC	000091	Clonakilty Bay SAC	14561.83	Habitats 1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline

Site Type	Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
				with <i>Ammophila arenaria</i> (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)* 2150 Atlantic decalcified fixed dunes (Calluno-Ulicetea)*
SPA	004219	Courtmacsherry Bay SPA	4480.90	Birds A156 Black-tailed Godwit (<i>Limosa limosa</i>) A149 Dunlin (<i>Calidris alpina</i>) A142 Lapwing (<i>Vanellus vanellus</i>) A179 Black-headed Gull (<i>Chroicocephalus ridibundus</i>) A140 Golden Plover (<i>Pluvialis apricaria</i>) A182 Common Gull (<i>Larus canus</i>) A069 Red-breasted Merganser (<i>Mergus serrator</i>) A157 Bar-tailed Godwit (<i>Limosa lapponica</i>) A160 Curlew (<i>Numenius arquata</i>) A050 Wigeon (<i>Anas penelope</i>) A048 Shelduck (<i>Tadorna tadorna</i>) A003 Great Northern Diver (<i>Gavia immer</i>) Habitats Wetlands
SPA	004191	Seven Heads SPA	10397.85	Birds A346 Chough (<i>Pyrrhocorax pyrrhocorax</i>)
SPA	004021	Old Head of Kinsale SPA	13733.06	Birds A188 Kittiwake (<i>Rissa tridactyla</i>) A199 Guillemot (<i>Uria aalge</i>)
SPA	004081	Clonakilty Bay SPA	14563.73	Birds A149 Dunlin (<i>Calidris alpina</i>) A156 Black-tailed Godwit (<i>Limosa limosa</i>) A160 Curlew (<i>Numenius arquata</i>) A048 Shelduck (<i>Tadorna tadorna</i>) Habitats Wetlands

The forest site comprises of a small area of 3.64ha of felling and replanting site and has no direct hydrological connectivity with any of the European sites. Furthermore, these sites are primarily of a coastal nature and their qualifying interests are habitats associated with coastal areas and species associated with these habitats. The proposal area is comprised of coniferous

woodland that will be replanted with broadleaf species. None of the species listed as qualifying interests of these European sites rely on coniferous woodland habitat. The FAC considers lack of connectivity, nature of the qualifying interests, nature and scale of the proposal and the substantial level of separation preclude the possibility of a significant effect on any of the European Sites. Amongst the sites Courtmacsherry Estuary SAC is the closest to the project and with regard to the qualifying interest habitats listed there can be no possible effect from the project. In addition the qualifying interest bird species of the European Sites set out are of such a nature that the felling and reforestation can have no possibility of a significant impact. The bird species are predominantly waders and sea birds and with the closest European SPA site at over 4km from the inland project site no possibility of a significant effect can exist. The exception is the Curlew but as mature forestry is not an identified habitat for the species again there is no possibility of a significant effect. The nature, scale and location of the proposal would preclude the possibility of a significant effect on sites outside of the 15km radius. The licence was granted with general conditions which do not include measures designed to mitigate impacts on European sites and no such measures were included in this screening.

In combination

The Kilanamaul River runs past the proposed site and is a tributary to the Bandon River. There are a number of emission points identified to the Bandon River which has no hydrological connectivity. Therefore any emissions could not result in any in-combination effects.

The following online planning systems were consulted on the dates indicated, focusing on the area of the Townland(s) containing the project (i.e. Ratharoon West):

057367

Ratharoon West. Bandon. Co.Cork

07/10/2005, Dwellinghouse and garage, PERMISSION

Cork County Council planning website corkcoco.ie/planningenquiry, consulted on the 12/12/2019:

No Match Found

An Bord Pleanála website www.pleanala.ie/indcx.htm, consulted on the 12/12/2019:

No Match Found

EPA website gis.epa.ie/EPAMaps/AAGeoTool. consulted on the 12/12/2019:

The FAC looked at other plans and projects in the area of the project site. Other forestry projects include a licences granted since 2018 for Afforestation licence CN82891 (2018), Forest Road Licence CN81854 (2018), Felling Licence (2018) and Coillte Felling Licence (2019).

The nature and scale of the proposed project TFL00370719 and other plans and projects identified in the area would not result in cumulative impacts on any European site. The FAC concluded that this afforestation, 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 TFL00370719 includes for the replanting of the site with penduculate-oak and additional broadleaf species, and does fall within the description of “initial afforestation” and there is no 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.

Notwithstanding the above, the FAC examined the proposal in terms of the likelihood of significant effects on the environment. There are adequate details before-the FAC in order to carry out such an examination.

The area is rural and agricultural in nature with existing areas of commercial, managed forests in the vicinity. Any impact of the proposed felling on the landscape would not be significant. There will be a visual impact arising from the felling and reforestation and this will change over time as the new forest matures. Other likely temporary impacts relate to traffic on local roads, biodiversity and landscape; these are not considered significant. There will be no significant impact arising from the interaction of these identified impacts.

Based on the nature, scale and location of this afforestation, the FAC concluded that there is no likelihood of a significant effect on the environment arising from this development.

Mary Lawlor on behalf of the Forestry Appeals Committee