



An Coiste um Achomhairc
Foraolseachta
Forestry Appeals Committee

30 March 2020

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Our ref: FAC 122/2019

Subject: Appeal in relation to felling licence TFL00272319

Dear [REDACTED]

I refer to the appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine (DAFM) on licence TFL00272319.

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 TFL00272319 was granted by the DAFM on 24 April 2019.

Hearing

A hearing of appeal 122/2019 was conducted by the FAC on 25 March 2020.

In Attendance at Hearing:

FAC Members: Mr. Des Johnson (Chairperson), Mr. Pat Coman, Mr. James Conway & Mr. Vincent Upton

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 TFL00272319:

The grounds of appeal outlined that the appropriate assessment undertaken by the DAFM in granting the licence was flawed in law.

In its statement to the FAC, dated 22 January 2020, DAFM stated:

"Felling Licence Application TFL00272319 has been processed according to all Forest Service Guidelines and procedures applicable at time of Application. The application was screened for Appropriate Assessment (applicable at time of application) and as part of this Statement has been re-assessed under current Appropriate Assessment Screening procedures. The closest Natura 2000 designated areas are; Lough Sheelin SAC (11km away), Boyne/Blackwater SAC/SPA (16km away), Lough Oughter SAC/SPA (18km away) and Kilconney Bog SAC (18km away). There are no watercourses adjoining the proposed Felling licence and no hydrological connection to any Natura 2000 site."

Cavan County Council websites and An Bord Pleanála were consulted. Non-forestry projects in the vicinity include;

- 2 pig houses (1795)*
- Clubroom and attic accommodation (17214)*
- Dwelling (1664)*
- Communications tower (17531)*

Iforis website and database was consulted for other forestry related projects in the vicinity, these include;

- Afforestation projects (CN83462 and CN78672)*

Considering all the afformentioned [sic] information the proposed harvesting operations will have no significant effect to any Natura 2000 area, either directly or in combination with any other project."

The decision related to a felling licence for thinning in 3 different years at 5 yearly intervals, for 7.77 hectares with Sitka spruce and Japanese larch at Drummanduff, Co. Cavan. The planting year of the site was recorded as 2004. The area is rural and agricultural in nature and the proposal area surrounds a pig farm on three sides, it is also across the road from a GAA club's premises. The area covered by the proposal is not crossed or adjacent to any aquatic features. The proposal area is not within a European site nor considered necessary for the management of any European site. The closest European site is Lough Sheelin SAC at c.11.4 km, with the next closest being the River Boyne & Blackwater SAC and SPA at c.15 km. The proposal area is in the River Boyne catchment. There is a watercourse to the south at nearest point c.175 meters from the proposal area but with no direct connectivity and is separated from the site by two public roads, this watercourse flows further south to the eastern Nadreegeel Lough which has an outflow which flows south eastern to Lough Ramor and from there onto the River Boyne.

The FAC is satisfied that the proposal does not include any features designed to mitigate any effects on a European site, and that the conditions attaching to the DAFM licence do not require any measures to avoid or reduce effects on a European site. The FAC concluded that the proposal covered by licence, either alone or in-combination with other plans or projects, would not result in the possibility of a significant effect on any European site.

The proposal does not fall within a class of development listed in the EIA Directive for the purposes of environmental impact assessment. Notwithstanding, the FAC considered the likelihood of any significant impacts on the environment and concluded that the proposal would not result in the likelihood of a significant effect on the environment, taking account of possible cumulative effects.

Details of the FAC's screening for Appropriate Assessment of the possibility of significant effects on Natura 2000 sites and consideration of the likelihood of significant effects on the environment are available on the public file.

The FAC considered that the proposal is consistent with Government policy and good forestry practice.

Yours sincerely,



James Conway, on behalf of the Forestry Appeals Committee

TFL00272319 (FAC 122/2019)

Proposed Development

The proposal is for a felling licence for 7.77 hectares with Sitka spruce and Japanese larch at Drummanduff, Co. Cavan. The planting year of the site is recorded as 2004. The proposal outlines thinning in three different years at intervals of 5 years for the three plots included.

The largest plot adjoins the public road, with a width of c70 meters, and extends back in this relatively narrow strip for c275 meters, before widening out in a north east direction before extending back south east towards the public road. In doing so it surrounds a pig farm on three sides. The site is relatively flat to moderately sloping.

The site is c5km from Ballyjamesduff and the public road that it adjoins, is only a short distance from the N3 Cavan to Kells road.

Appropriate Assessment Screening

European Sites

The following European sites are within a 15 km zone of the project area.

Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
002299	River Boyne and River Blackwater SAC	14975.05	Habitats 7230 Alkaline fens 91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae)* Species 1106 Salmon (<i>Salmo salar</i>) 1355 Otter (<i>Lutra lutra</i>) 1099 River Lamprey (<i>Lampetra fluviatilis</i>)
004065	Lough Sheelin SPA	11436.45	Birds A067 Goldeneye (<i>Bucephala clangula</i>) A061 Tufted Duck (<i>Aythya fuligula</i>) A059 Pochard (<i>Aythya ferina</i>) A005 Great Crested Grebe (<i>Podiceps cristatus</i>) Habitats Wetlands
004232	River Boyne and River Blackwater SPA	14968.20	Birds A229 Kingfisher (<i>Alcedo atthis</i>)

The area covered by the proposal is not crossed or adjacent to any aquatic features. The proposal area is not within a European site nor considered necessary for the management of any European site. The closest European site is Lough Sheelin SAC at c11.4 km, with the next closest being the River Boyne & Blackwater SAC and SPA at c15 km. The proposal does not include any design features designed to avoid or reduce effects on any European site. The proposal area is in the River Boyne catchment. There is a watercourse to the south at nearest point 175 meters from the proposal area but with no direct connectivity and is separated from the site by two public roads, this watercourse flows further south to the eastern Nadreegeel Lough which has an outflow which flows south eastern to Lough Ramor and from there in the same direction onto the River Boyne.

However due to the scale and nature of the proposal, the lack of any hydrological connectivity and the degree of separation it would not be possible for the proposed thinning to result in any possible effect on these or any other European site.

The area is rural and agricultural in nature and the proposal area surrounds a pig farm on three sides, it is also across the road from a GAA club's premises. In the additional information provided by the Department of Agriculture, Food & the Marine in response to the FAC, the following online plans and projects were identified; two afforestation projects (CN83462 and CN78672) and two pig houses (1795), clubroom and attic accommodation (17214), dwelling (1664) and communications tower (17531). Due to the factors noted previously there is no possibility of any other plans and projects resulting in the proposed activity having any possible in-combination effects on any European site.

The FAC is satisfied that the proposal does not include any features designed to mitigate any effects on a European site, and that the conditions attaching to the DAFM licence do not require any measures to avoid or reduce effects on a European site.

The FAC concluded that the proposal covered by licence TFL00272319, either 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 (EIA)

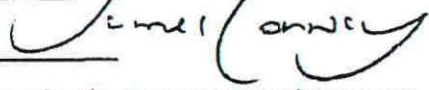
The proposed development is for felling and, in particular, thinning in 3 different years at 5 yearly intervals. No change in land use would occur. The proposal does not fall within a class of development listed in the EIA Directive for the purposes of environmental impact assessment. Notwithstanding, the FAC considered the likelihood of any significant impacts on the environment.

The proposal area adjoins a public road, on the northern side of the road, and is only a short distance from the N3 Cavan to Kells road. The road network in the area caters for existing traffic and the proposal is unlikely to significantly impact on traffic outside of limited periods of thinning/felling. The trees in question here may be visible from some locations along the surrounding road network. The trees though are not of such exceptional amenity value as to stop thinning of same.

The area is a rural area and agricultural in nature with a dispersed settlement pattern, which is not particularly sensitive to the type of development proposed. Any environmental effects of the proposal would be small-scale and locally confined. The FAC consider then that the thinning/felling proposed would not have a significant impact on the landscape.

There is no national monument on the proposal area or adjoining it. There are a limited number of other afforestation projects in the area. As noted, there will be no possibility of a significant impact on a European site. There are no hydrological features on or leading from the site. The FAC also consider that the tree thinning/felling proposed would not be likely to give rise to significant effects on the environment due to water or air pollution.

Overall the FAC concluded that the proposal would not result in the likelihood of a significant effect on the environment, taking account of possible cumulative effects, and that formal EIA screening was not required.


James Conway for the Forestry Appeals Committee

30 March 2020