



An Coiste um Achomhairc  
Foraoiseachta

Forestry Appeals Committee

20 February 2020

[Redacted]

Appellants: [Redacted]

Our ref: FAC 093/2018

Subject: Appeal in relation to afforestation licence CN80648

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 licence CN80648.

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 licence CN80648 was granted by the Department on 28 March 2018.

**Hearing**

An oral hearing of appeal 093/2018 was conducted by the FAC on 04 February 2020 at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois

**In Attendance at Oral Hearing:**

**Department Representative:** Mr Sepi Hona and Mr Colin Gallagher

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

**Secretary to the FAC;** Ms Ruth Kinehan

**Decision**

Having regards to the evidence, both written and oral, before it and the following considerations, the FAC has decided to confirm the decision of the Minister regarding licence CN80648:

An Coiste um Achomhairc  
Foraoiseachta  
Forestry Appeals Committee

Kilminchy Court,  
Portlaoise,  
Co Laois  
R32 DWT5

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057 863 1900

In its statement to the FAC received on 19 June 2018, the Department of Agriculture, Food and the Marine stated:

1. *The application was not submitted to any other regulatory body as this was not required. The site does not fall into any relevant referral layers and was field inspected by the Department of Agriculture, Food & the Marine (DAFM) on the 6<sup>th</sup> March 2018. The site consists of improved grassland currently used for conventional agriculture. The site is ideally suited to afforestation and timber production. None of points raised by the Save Leitrim group were deemed relevant at pre-approval stage to this site and thus approval was recommended.*
2. *The issues relating to the Irish famine which occurred between 1845 and 1849 have been well documented and have nothing to do with afforestation. Comparing pre-famine population figures with those from 2016 is not sincere and does not reflect true population fluctuations in Co. Leitrim and the reasons for same. CSO figures indicate a steady increase in the population of County Leitrim from 2002 right through to the most recent data in 2016. The forestry sector is an integral part of rural employment in Co. Leitrim and provides much needed supplementary income to subsistence farmers who may find it difficult to make ends meet if they only depended on conventional agriculture. Forestry provides the landowner not just with an annual premium but years down the line a source of income from timber and renewable energy. Any source of additional income to our subsistence farmers should be encouraged and the afforestation scheme provides a 'common sense' income stream to landowners who voluntarily wish to enter it.*
3. *The DAFM have strict guidelines and standards that are revised and updated on a regular basis to ensure that all forest related activities are carried out to best practice. These standards are created with feedback and input from all stakeholders. The DAFM Environmental Requirements form the basis of all environmental controls required to be adhered to by all applicants wishing to avail of the afforestation scheme. Sites are inspected at regular intervals to ensure that all guidelines are adhered to and a penalty schedule is also available to the DAFM if applicants/forestry companies fail to adhere to guidelines and procedures. There are no unusual constraints on this site and thus standard conditions as specified above have been included in the approval.*
4. *This point is addressed directly to the FAC.*
5. *The Save Leitrim Group have made an appeal based on general issues that have nothing to do with this application for afforestation. No documentary evidence has been submitted to back up any of the points raised.*

The FAC has no role in relation to forestry policy which, under law, is the responsibility of the Minister for Agriculture, Food and the Marine. The FAC can address only the grounds of appeal which relate directly to the licence in question.

- o Public consultation in the case of the licence application was provided for through: (i) the erection of the site notice, with the location of it marked on the biodiversity map submitted and found in place and compliant with the Department's guidelines on the Department's inspection, (ii) the posting of summary details of the application on the website of the Department of Agriculture, Food and the Marine and (iii) the facility provided for submission/objection to the Department by any party before the Department's decision on the licence application as required under SI 191 of 2017, Forestry Regulations 2017. There were five objections to the application.



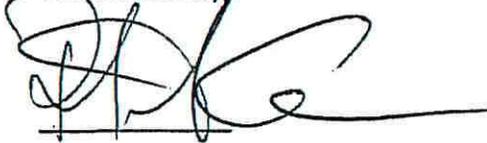
- The appellants have been provided by the FAC with the full Department's statement on the appeal.
- The proposal site is not located within Gubs TD.
- Clear-felling of this project will have to comply with legal requirements in place at that time and cannot be adjudicated upon in this decision.
- The application is apparently for a commercial forestry plantation, and landowners have the right to afforest their lands, once doing so within the law.
- A condition of the licence at appeal is compliance with Departmental guidelines and requirements for Landscape, Water Quality, Harvesting, Biodiversity and Archaeology. Furthermore, the application of fertilisers and herbicides are subject to the Environmental Requirements for Afforestation, December 2016, which exclude application within aquatic buffer zones. These provisions are considered adequate to avoid deterioration in water quality and the environment in general.
- The encroachment of deer onto roads and agricultural land is a national issue in relation to which the FAC has no function. The FAC has no role regards TB requirements.
- The requirements of the *Forestry Standards Manual* in relation to fire risk have been followed by the Inspector. There is no high-risk bogland connected to the site. The prescribed setback requirements have been met.
- In respect of the Meadow Pipit, Cuckoo, Skylark and Snipe, the policy of the Department outlined in its publication '*Using Vegetation to assess Land Suitability, 2016*' is to restrict the afforestation of unimproved or unenclosed land. This policy has the effect of preserving ground-nesting habitat, foraging habitat and associated flora and fauna in non-designated areas. The land within CN80648 is improved agricultural land and all hedgerows are retained.
- The Teagasc Technology Update of October 2016 outlined the project '*Estimating the distribution of High Nature Value farmland in Ireland*' (Project dates Jan 2013 — Mar 2016). However, there has been no overall definitive classification and mapping exercise completed on High Nature Value land (HNV) in the EU and the legislative protection for HNV farmland in Ireland is confined to restrictions on certain activities on protected sites. The site at appeal is not such a site.
- Regards this March 2018 licence at least 15% of the licence lands will be Areas for Bio-Diversity Enhancement (ABE) made up of open space and retained habitat including hedgerows and 10% broadleaf species will be part of the species mix. This is in line with

the 'Environmental Requirements for Afforestation, December 2016', Department of Agriculture, Food and the Marine.

The proposed afforestation 8.32 ha at Drumerkeane, Co Leitrim is sub-threshold for the purposes of EIA per the provisions of SI 191 of 2017 the Forestry Regulations and does not require mandatory environmental impact assessment. The wider area is rural and agricultural in character and supports significant areas of mature and maturing forestry and has a sparse settlement pattern. Having regard to the nature, scale, location and design of the proposed afforestation, the nature and extent of existing forestry in the area and to the characteristics of the surrounding environment, the FAC concludes that the proposed afforestation either by itself, or in combination with other projects and land uses in the area, would not give rise to any real likelihood of significant effects on the environment and that the submission of an environmental impact statement of the proposal is not required. The FAC are satisfied that the requirements of the EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU) have been met.

From the evidence available to the FAC, the project site is moderately sloped with south-west aspect, described as mineral soil. There are no EPA identified watercourses on the site, there is an EPA mapped watercourse to the west of the site that flows to north, this is approximately 100m distance from the site. Lough Oughter and Associated Loughs SAC is at 9.2 km with no hydrological connectivity. Lough Oughter Complex SPA is at 11.3 km and is a wetland habitat for listed birds – the site subject to assessment is not a wetland site and is improved agricultural land. There is a hydrological connection to Ballykenny-Fisherstown Bog SPA at 38 km and the proposed project can have no possible effect on the interests of that SPA. The FAC is satisfied that no possibility of a significant effect on a European Site arises when considered against the works licenced and the interests of those SAC and SPA sites, the site at appeal is unsuited to the qualifying interest bird species of the SPAs, many of which are waterfowl, for reason of unsuitable foraging and the distance from the SPAs. Also, there is no possible effect from this site on the interests of the closest SACs based on distance and proposed works. The FAC concludes that this project on its own can have no possible effect on the Natura sites set out for. In addition, the FAC has examined for any likely sources of effects arising from the project together with any other likely sources of effects from other proposed or permitted plans or projects on European Sites. Based on the evidence, while the project is adjacent to and divided from an EPA watercourse by another afforestation project within Drumerkeane the hydrological connectivity is at such a distance from a European site (38km approx.) that no possible effect arises. The FAC are satisfied from the evidence that the project CN80648 on its own or in-combination with other plans or projects will not give rise to any possibility of significant effects and an appropriate assessment is not required.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Pat Coman', written over a horizontal line.

Pat Coman, on behalf of the Forestry Appeals Committee