



19<sup>th</sup> February 2020

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**Subject:** Appeal in relation to licence FAC 014/2018 CN79920

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**

Afforestation license CN79920 was issued on 5<sup>th</sup> March 2018.

**Hearing**

An oral hearing was conducted by the FAC at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois on 4<sup>th</sup> February 2020.

In attendance at the oral hearing:

<b>FAC Members:</b>	Mr. Des Johnson (Chairperson), Mr. Vincent Upton, Mr. James Conway and Mr. Pat Coman
<b>DAFM Reps:</b>	Mr Seppi Hona and Mr Colin Gallagher
<b>Secretary to the FAC:</b>	Ms. Ruth Kinehan
<b>Applicant Representatives:</b>	[REDACTED]

**Decision**

Having regard to the evidence, written and oral, before it and, in particular, the considerations set out below, the FAC has decided to cancel the decision of the Minister regarding licence CN79920.

The proposal is for afforestation on a stated site area of 9.51 ha. The site elevation is stated to be between 102m and 109m and the soil type is mineral. The vegetation on the site is grass/rush. This is a rural agricultural area with a dispersed settlement pattern. The proposed site adjoins existing forestry and the surrounding area is extensively forested. The appellants submissions refer to the absence of an assessment under the EIA Directive and state that a request for the screening report carried out under the Habitats Directive has not been provided. In a response to a request for Further Information made by the Forestry Appeals Committee (FAC), the Department of Agriculture, Food and the Marine states that it took standards of good forest practice into its consideration as mitigation measures in terms of their potential to avoid or reduce the likely effects of the proposed development on the integrity of any Natura 2000 sites in view of those sites' conservation objectives. There are no details on file of any European sites considered. The Department of Agriculture, Food and the Marine further stated that, if the proposal was screened under new procedures adopted by the Department of Agriculture, Food and the Marine, it would not be screened out. The Department of Agriculture, Food and the Marine did not provide any details of plans or projects in the vicinity with the potential to give rise to in-combination effects, as requested by the FAC.

Based on the information before it, including the Department of Agriculture, Food and the Marine submission in response to the Further Information request, the FAC is not satisfied that the requirements of the Environmental Impact Assessment or Habitats Directives in respect of examination/screening were satisfactorily met prior to the granting of the licence. Furthermore, in the absence of essential information relating to relevant European sites, and other plans and projects in the vicinity, including extensive areas of mature and maturing forestry, the Committee concluded that it is not in a position to satisfactorily evaluate the likely significant effects of the proposal on the environment or on any relevant European sites. In such circumstances, the FAC decided to cancel the licence.

In respect of certain other grounds

- o 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 and cannot take account of the overall effects of afforestation on a county as these relate to forestry policy.
- 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.
- o The appellants have been provided by the FAC with the full Department's statement on the appeal.

Yours sincerely,



Pat Coman, on behalf of the Forestry Appeals Committee