



31 January 2020

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Our ref: FAC 013/2019

Subject: Appeal in relation to afforestation licence CN81935

Dear [Redacted]

I refer to your appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine (DAFM) on licence CN81935.

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 CN81935 was granted by the DAFM on 20 December 2018.

Hearing

An oral hearing of appeals 012/2019 & 013/2019 was conducted by the FAC on 14 January 2020 at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois.

In Attendance at Hearing:

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

Appellants: [Redacted]

Applicant: [Redacted]

Applicant's Representatives: [Redacted]

DAFM Representatives: Mr. David Ryan & Ms. Lisa Chigara

Secretary to the FAC: Ms. Ruth Kinehan

Decision

Having regard to the evidence, before it and, in particular, the following considerations, the FAC has decided to cancel the decision of the Minister regarding licence CN81935:

The FAC finds CN81935 relates to an afforestation licence for 11.37 hectares in the townland of Doogary, Co. Mayo, the application land is currently in agricultural use, vegetation comprises grass/rush, with soils described as mainly gley and peat in nature, with the slope mainly flat to moderate (15%) and is categorised as improved agricultural land.

The standard 60 metre setback from dwellings has been applied as a condition of the licence, beyond which will be a further 20 metre broadleaf plot in the proposed site to the north, incorporating the existing hedgerow, with a low growing fruiting species in front with taller light canopy species behind the hedgerow. This will ensure that the conifer plantation will be setback 80 metres from the dwelling across the road from the proposed site to the north, and screened by broadleaves.

The FAC has no basis on which to affect the licence in respect of conditions under the Planning and Development Regulations. The conditions with regard to other planning permissions cannot be attributed to this proposal.

Issues regarding local road infrastructure are a matter for Mayo County Council. This proposed development is exempted under the Planning and Development Regulations, but it is acknowledged that the change of use of an agricultural entrance is not exempted development.

In relation to fire risk, setbacks specified at Section 6.5 of the Forestry Standards Manual apply to roads, houses and power lines. The FAC is satisfied the guidelines in relation to fire risk set out in the Forestry Standards Manual have been followed.

A DAFM archaeologist assessed the proposal prior to the granting of the licence and specific archaeological conditions are attached to the licence based on the archaeologist report. The FAC finds these conditions include a 10m wide unplanted buffer zone/setback is required around historic farmhouses and outbuildings and 5m wide unplanted buffer zone/setback is required around the attached infields. The FAC is satisfied that archaeological features have been satisfactorily considered, and in accordance with normal standards of the Forestry and Archaeological Guidelines.

The control of badgers and deer are a national issue in relation to which the FAC has no function.

The FAC notes the Natura 2000 sites within 15km of the proposed afforestation and their separation distances, the qualifying interests of the sites, the distance of any hydrological connectivity between the sites and the proposed afforestation. The Natura 2000 sites are as follows; River Moy SAC [002298], Urlaur Lakes SAC [001571], Errit Lough SAC [000607], Derrinea Bog SAC [000604], and Carrowbehy/Caher Bog SAC [000597].

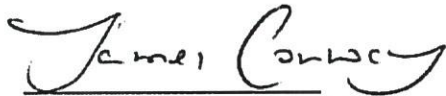
The proposed site is within 3 kilometres of the River Moy SAC; approximately 1.3 kilometres to the nearest point in a straight line and approximately 3.3 kilometres in a straight line upstream of the River Moy SAC with direct hydrological connection. No other Natura 2000 sites are hydrologically connected to the proposed site.

The proposed site is therefore in close proximity to this Natura 2000 site, the River Moy SAC, and a tributary of the River Moy runs alongside the boundary of the proposed site; both along the western boundary of the northern block of land (4.95 hectares) and along the northern boundary of the southern block of land (6.42 hectares). The qualifying interests of this SAC are; White-clawed Crayfish, Sea Lamprey, Brook Lamprey, Atlantic Salmon, Otter, Raised Bog, Degraded Raised Bog, Depressions on peat

substrates of the Rhynchosporion, Alkaline Fens, Old Sessile Oak Woods and Alluvial Forests. The conservation objectives of this SAC are to restore the favourable conservation condition of active raised bogs and maintain the favourable conservation condition of Alkaline Fens, Old Sessile Oak Woods and Alluvial Forests, and the species listed above in the SAC.

Due to the site's proximity and connectivity to the River Moy SAC, the size of this stream adjoining the northern block of land, the size of the proposal (11.37 hectares), the conditions of the proposed site, the nature and extent of the DAFM's response to the FAC's request for further information on 24 October 2019, the lack of assessment by the DAFM of the in combination effect of other plans or projects with this proposed development, the FAC is not satisfied, based on the information before it, that the proposed afforestation by itself or in combination with other plans and projects would not have a significant effect on the River Moy SAC (Code: 002298) having regard to the conservation objectives set for that site. The FAC, in applying the precautionary principle, considered that the possibility for significant effects could not be discounted and that the licence should be cancelled.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'James Conway', with a stylized flourish at the end.

James Conway, on behalf of the Forestry Appeals Committee

