



24th July 2020

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Subject: Appeal FAC232/2019 regarding licence TFL00298019

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

Licence TFL00298019 for felling and replanting of 19.65 ha at Annaduff Glebe, Co. Leitrim was issued by the Department of Agriculture, Food and the Marine (DAFM) on 29th August 2019.

Hearing

A hearing of appeal FAC232/2019 was held by the FAC on 22nd July 2020.

FAC Members: Mr. Des Johnson (Chairperson), Mr. Pat Coman, Mr. Jim Gallagher, Mr. Vincent Upton

Decision

Having regard to the evidence before it and, in particular, the following considerations, the Forestry Appeals Committee (FAC) has decided to confirm the decision of the Minister regarding licence TFL00298019.

The licence pertains to 19.65 ha of Sitka spruce and Japanese larch due for felling in 2019 and 2022 to be replanted with Sitka spruce and broadleaves at Annaduff Glebe, Co. Leitrim. The forest is composed of nine stands divided across three blocks. An ESB line runs through the main block and the stands to the south and a river runs beside the block at the southwest while the forest is setback from the river. This river flows to the southwest to join the Shannon that then flows southerly and enters Lough Boderg and Lough Bofin, a pNHA. A regional road runs along the southern boundary and a minor road adjoins the east of the main block of forest. The forest is situated in a rural area surrounded by agricultural land and some existing mature forests around 8km east of Carrick-on-Shannon and the Masonite plant is approximately 1 km to the southwest. There are conditions attached to the licence that are of a general

nature and require adherence to environmental guidelines and requirements. Additional conditions have been included,

- 10 m setback to all watercourses at reforestation stage and plant 5 rows of mixed ADB adjoining setbacks.
- Adhere to forestry & water quality guidelines.

There is one appeal against the decision. The grounds suggest that on the basis of information supplied it is not possible to grant a Licence which would be in compliance with the EIA and Habitats Directives having regard to specific judgements of the CJEU. It is also contended that cumulative effects were not assessed.

In a statement to the FAC, the DAFM stated that they are satisfied that the decision met their criteria and guidelines and that they confirm the licence. They suggest that the relevant AA screening procedure relevant at the time was applied. In light of changes to the AA procedures a revised AA screening was completed. It is suggested that there is one Natura 2000 site within 15 km, which was screened out. An in-combination assessment has also been provided and the conclusion is that the project alone or in-combination with other plans or projects will not have any significant impacts on any Natura 2000 sites.

In considering the appeal and before making a decision, the FAC undertook an examination in relation to the requirements of the Habitats and EIA Directives respectively and copies of these considerations are contained in the public file.

There is one European site within 15km, Clooneen Bog SAC which lies over 13km to the south of the proposed felling. The SAC lies to the north of Lough Forbes and in a different sub-catchment to the proposal without any direct hydrological connection. Based on the distance from this SAC and the absence of any hydrological connection there is no likelihood of the proposal having a significant effect on this SAC. The river to the south of the proposal joins the Shannon and flows into Lough Boderg and Lough Bofin exiting at the southern end before entering Lough Forbes Complex SAC and Ballykenny-Fisherstown Bog SPA. The direct distances from the proposal to these European sites is over 15km and the hydrological distance is over 17km. Given the degree of separation the proposal could not result in any noise or visual disturbance and the forest would not be considered appropriate habitat for the species associated with these sites. The forest itself is setback from the river and it is unlikely that any sediment or surface runoff would reach it but if this was to occur the extensive river and lake system between the proposal and the SAC and SPA would naturally provide considerable settling and dilution and prevent any significant material from reaching the sites even in the absence of best practice guidelines. The proposal is not likely to result in significant effects on Lough Forbes Complex SAC and Ballykenny-Fisherstown Bog SPA. There are no conditions attached to the licence that relate to the mitigation on effects on a European site. There are a number of planning permissions in the area and these primarily relate to residential, agricultural and recreational uses and do not adjoin the proposal. The Masonite plant is situated to the southwest of the proposal. The proposed felling adjoins some existing mature forests and there are other felling licences in the area and a number of afforestation licences have also been granted. The County Development Plan was also examined, and no related

issues were identified. Given the degree of separation from any European site these other proposals could not increase the impact of the proposed felling or result in significant effects in-combination with the proposal. Having regard to the nature, scale and location of the proposal, its proximity and connectivity to European sites and the conservation objectives of those sites, the FAC concludes that the proposal is not likely to have any significant effect on any European site, itself or in combination with other plans or projects.

The EU Directive sets out, in Annex 1 a list of projects for which EIA is mandatory. Annex 11 contains a list of projects for which member states must determine through thresholds or on a case by case basis (or both) whether or not EIA is required. Neither afforestation nor deforestation (nor clear-felling) are referred to in Annex 1. Annex 11 contains a class of project specified as "initial afforestation and deforestation for the purpose of conversion to another type of land use" (Class 1 (d) of Annex 11). The Irish Regulations, in relation to forestry licence applications, require the compliance with the EIA process for applications relating to afforestation involving an area of more than 50 Hectares, the construction of a forest road of a length greater than 2000 metres and any afforestation or forest road below the specified parameters where the Minister considers such development would be likely to have significant effects on the environment. The felling of trees and subsequent replanting, as part of a forestry operation with no change in land use, does not fall within the classes referred to in the Directive, and is similarly not covered by the Irish regulations (S.I. 191 of 2017).

The proposal is for felling and replanting which would be normal activities in a commercially managed forest and would be carried out under licence and with conditions to adhere to a series of requirements and guidelines. The replanting of the forest will ensure that the resource is maintained. The area is rural and agricultural, and these activities would not be out of keeping with the general area. The forest is bordered by a river to the south, but it is setback from this river and conditions require good practice measures regarding water quality. A condition on the licence includes the replanting of broadleaves along a setback from the river which may diversify the available habitats in the forest. Significant effects on water or biodiversity are not considered likely. Traffic will likely increase as a result of the operations and there may be some noise disturbance, but this will be of a temporary nature. There are no recorded monuments that could be impacted by the proposal. There is no evidence of protected species or habitats in the area and the proposal is not considered likely to result in significant effects on a European site. The FAC does not consider that the proposal falls within the classes included in the Annexes of the EIA Directive and does not consider that it would result in any real likelihood of a significant effect on the environment.

Before making its decision, the FAC considered all of the information submitted with the application, the processing of the application by the DAFM, the grounds of appeal and any submissions received.

Yours sincerely,



Pat Coman on behalf of the Forestry Appeals Committee



FAC232/2019 TFL00298019 Annaduff Glebe, Co. Leitrim

23rd July 2020

Before making its decision the Forestry Appeals Committee (FAC) undertook an appropriate assessment screening of the proposal in line with the Habitats Directive and examined the proposal from the perspective of the EIA Directive. These considerations were based on information provided by parties to the appeal and available in the public domain.

The licence pertains to 19.65 ha of Sitka spruce and Japanese larch due for felling in 2019 and 2022 to be replanted with Sitka spruce and broadleaves at Annaduff Glebe, Co. Leitrim. The forest is composed of nine stands divided across three blocks. An ESB line runs through the main block and the stands to the south and a river runs beside the block at the southwest while the forest is setback from the river. This river flows to the southwest to join the Shannon that then flows southerly and enters Lough Boderg and Lough Bofin, a pNHA. A regional road runs along the southern boundary and a minor road adjoins the east of the main block of forest. The forest is situated in a rural area surrounded by agricultural land and some existing mature forests around 8km east of Carrick-on-Shannon and the Masonite plant is approximately 1 km to the southwest.

There are conditions attached to the licence that are of a general nature and require adherence to environmental guidelines and requirements. Additional conditions have been included,

- 10 m setback to all watercourses at reforestation stage and plant 5 rows of mixed ADB adjoining setbacks.
- Adhere to forestry & water quality guidelines.

Appropriate Assessment Screening

There is one European site within 15km, Clooneen Bog SAC which lies over 13km to the south of the proposed felling. The SAC lies to the north of Lough Forbes and in a different sub-catchment to the proposal without any direct hydrological connection. The qualifying interests of the SAC are provided below and site specific conservation objectives have been made for a number of the habitats. Based on the distance from this SAC and the absence of any hydrological connection there is no likelihood of the proposal having a significant effect on this SAC. The river to the south of the proposal joins the Shannon and flows into Lough Boderg and Lough Bofin exiting at the southern end before entering Lough Forbes Complex SAC and Ballykenny-Fisherstown Bog SPA. The direct distances from the proposal to these European sites is over 15km and the hydrological distance is over 17km. Given the degree of separation the proposal could not result in any noise or visual disturbance and the forest would not be considered appropriate habitat for the species associated with these sites. The forest itself is setback from the river and it is unlikely that any sediment or surface runoff would reach it but if this was to occur the extensive river and lake system between the proposal and the SAC and SPA would naturally provide considerable settling and dilution and prevent any significant material from reaching the sites even in the absence of best practice guidelines. The proposal is not likely to result in significant effects on Lough Forbes Complex SAC and Ballykenny-Fisherstown Bog SPA. Based on the size and nature of the proposal and the

absence of connection there is no likelihood of significant effects arising on any other European site. There are no conditions attached to the licence that relate to the mitigation on effects on a European site and none were considered in this screening.

There are a number of planning permissions in the area and these primarily relate to residential, agricultural and recreational uses and do not adjoin the proposal. The Masonite plant is situated to the southwest of the proposal. The proposed felling adjoins some existing mature forests and there are other felling licences in the area and a number of afforestation licences have also been granted. The County Development Plan was also examined and no related issues were identified. Given the degree of separation from any European site these other proposals could not increase the impact of the proposed felling or result in significant effects in-combination with the proposal.

Having regard to the nature, scale and location of the proposal, its proximity and connectivity to European sites and the conservation objectives of those sites, the FAC concludes that the proposal is not likely to have any significant effect on any European site, itself or in combination with other plans or projects.

Site Type	Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives	Assessment
SAC	2348	Clooneen Bog SAC	13204.49	Habitats 7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion 91D0 Bog woodland*	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002348.pdf	No likelihood of significant effects
SAC	1818	Lough Forbes Complex SAC	15402.6	Habitats 3150 Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation 7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion 91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae)* 3160 Natural dystrophic lakes and ponds 4010 Northern Atlantic wet heaths with <i>Erica tetralix</i> 4030 European dry heaths 4060 Alpine and Boreal heaths 6230 Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)* 7130 Blanket bogs (* if active bog) 7140 Transition mires and quaking bogs 7220 Petrifying springs with tufa formation (Cratoneurion)*	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO001818.pdf	No likelihood of significant effects

				8110 Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) 8220 Siliceous rocky slopes with chasmophytic vegetation Species 1393 Slender Green Feather-moss (Drepanocladus vernicosus) Species 1013 Geyer's Whorl Snail (Vertigo geyeri)		
SPA	4101	Ballyken ny-Fisherstown Bog SPA	15403.98	Birds A395 Greenland White-fronted Goose (Anser albifrons flavirostris)	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004101.pdf	No likelihood of significant effects

Examination of Environmental Impacts

The EU Directive sets out, in Annex 1 a list of projects for which EIA is mandatory. Annex 11 contains a list of projects for which member states must determine through thresholds or on a case by case basis (or both) whether or not EIA is required. Neither afforestation nor deforestation (nor clear-felling) are referred to in Annex 1. Annex 11 contains a class of project specified as "initial afforestation and deforestation for the purpose of conversion to another type of land use" (Class 1 (d) of Annex 11). The Irish Regulations, in relation to forestry licence applications, require the compliance with the EIA process for applications relating to afforestation involving an area of more than 50 Hectares, the construction of a forest road of a length greater than 2000 metres and any afforestation or forest road below the specified parameters where the Minister considers such development would be likely to have significant effects on the environment. The felling of trees and subsequent replanting, as part of a forestry operation with no change in land use, does not fall within the classes referred to in the Directive, and is similarly not covered by the Irish regulations (S.I. 191 of 2017).

The proposal is for felling and replanting which would be normal activities in a commercially managed forest and would be carried out under licence and with conditions to adhere to a series of requirements and guidelines. The replanting of the forest will ensure that the resource is maintained. The area is rural and agricultural and these activities would not be out of keeping with the general area. The forest is bordered by a river to the south but it is setback from this river and conditions require good practice measures regarding water quality. A condition on the licence includes the replanting of broadleaves along a setback from the river which may diversify the available habitats in the forest. Significant effects on water or biodiversity are not considered likely. Traffic will likely increase as a result of the operations and there may be some noise disturbance but this will be of a temporary nature. There are no recorded monuments that could be impacted by the proposal. There is no evidence of protected species or habitats in the area and the proposal is not considered likely to result in significant effects on a European site. There are a number of other forestry licences granted in the area as noted above but the forest under consideration is divided out into a number of stands and is generally surrounded by agricultural land with only limited connectivity to other forests.

The FAC does not consider that the proposal falls within the classes included in the Annexes of the EIA Directive and does not consider that it would result in any real likelihood of a significant effect on the environment. In this case, formal screening or the submission of an EIAR is not required.

Vincent Upton
On Behalf of the Forestry Appeals Committee