



24th July 2020

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Subject: Appeal FAC006/2019 regarding licence GY21-FL0023

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 GY21-FL0023 for felling of 3.16 ha at Finnaun, Co. Galway was issued by the Department of Agriculture, Food and the Marine (DAFM) on 7th December 2018.

Hearing

A hearing of appeal FAC330/2019 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 cancel the decision of the Minister regarding licence GY21-FL0023.

The licence decision pertains to a 3.16 ha clearfell, composed of Sitka spruce, lodgepole pine, Japanese larch, alder with replanting of Sitka Spruce and lodgepole pine and 0.16 ha of open space retained. The underlying soil type is described as blanket peats and the slope is described as predominantly moderate (0-15%). The site lies in the Owenboliska 010 waterbody and a stream runs through the forest and flows southwesterly. The licence was granted with a number of conditions including the inclusion of a 20

metre setback. The proposal was referred to the County Council and Inland Fisheries Ireland but neither body provided a response.

There is one appeal and the grounds can be summarised as follows,

The lands adjoin an aquatic zone which is part of the Boluisce system which contains salmon, a protected species under Annex II/IV of the EU Habitats Directive. It is suggested that this application is one of many on an ongoing basis and is considered to constitute project splitting to avoid the need for an environmental impact statement with screening under the Habitats Regulations, a Natura Impact Statement and carrying out of appropriate assessment. The Harvest Plan should be available with applications. There is an objection to the replanting as it is suggested that the land is unsuitable and continues with problems of acidification. No reference is made to planting of native trees and given extensive nature of forestry and it is suggested that the setback too small.

The DAFM provided a statement to the FAC which suggests that in regards the river identified as the Owenboliska, adherence to the standard procedures as outlined in the conditions will not affect the receiving waters; That the project did not meet the requirement for EIA or sub threshold EIA; That a visual assessment of the application was carried out and there were no proximate felling operations licenced and the nearest felling area is 555m from the site and totals 16.04 ha. They further suggest that Coillte carry out internal Environmental Impact Assessment and produce reports when the threshold is met. This application did not meet the requirement for an EIA. It is suggested that a Harvest Plan is not typically required at licensing stage, but can be sought where necessary, in this instance the appellant engaged directly with Coillte. Finally, they suggest that the restock species supplied in the application pack is made up of 80% lodgepole pine and 20% other broadleaves, which are typically made up of alder and birch in this area.

Subsequent to the appeal being made, the DAFM undertook a new screening of the proposal and provided this to the FAC. This indicated that the likelihood of significant effects on Connemara Bog Complex SAC and SPA could not be excluded and that appropriate assessment was required. Five other European sites were screened out for appropriate assessment 000297 Lough Corrib SAC, 001312 Ross Lake and Woods SAC, 001271 Gortnandarragh Limestone Pavement SAC, 004042 Lough Corrib SPA, 002111 Kilkieran Bay and Islands SAC.

The nature of the stream that crosses the site can not be readily verified from the information provided but it is noted that a 20 metre setback would be required at the replanting stage. This stream flows southwest to join a river and enters the Connemara Bog Complex SAC and SPA. The hydrological distance from the proposal to the SAC and SPA boundary is 2.5km. A small lake at this boundary is classified as potential 3110 Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia unifloraræ*) in the conservation objectives of the SAC. The stream and river closest to the proposal do not form part of the main body of the Owenboliska river but are situated in the sub-catchment and are hydrologically connected to the river through a number of lakes. The Owenboliska and associated system are identified in the SAC conservation objectives for Salmon (*Salmo salar*). There is evidence of a number of larger areas licensed for felling in the vicinity of the proposal but no

information on their degree of connectivity with the proposal or the hydrological system in the area. While the proposal is of a small scale and the nature of the connection to the SAC is unclear, the FAC considers that the likelihood of significant effects arising from the proposal, itself or in combination with other plans or projects, in the absence of suitable mitigation measures can not be readily concluded based on the information made available to it. The qualifying interests of the Connemara Bog Complex SPA are unlikely to use the habitat in which the proposal would occur but may rely on the qualifying interests of the SAC and in this situation, and noting the new screening undertaken by the DAFM, the FAC considers that the likelihood of significant effects arising from the proposal itself or in combination with other plans or projects can not be readily concluded based on the information made available to it regarding the SPA. The FAC concluded that the proposal is not likely to result in significant effects on any other European site.

The proposal is for the felling and replanting of a commercial forest with no change of land use and the FAC does not consider that the licensed proposal falls within the classes of projects included in the Annexes of the EU EIA Directive. The proposal is for the felling of a small stand within a larger commercially managed forest and would be in keeping with standard management practices and the FAC does not consider that there is any evidence of project splitting. However, any consideration of possible impacts on European sites must take account of other plans and projects.

Regarding the issue of acidification and the planting of native species, the FAC notes that the proposal appears to be within an area classified as acid sensitive by the DAFM (see for example Appendix 11 of the Forestry Standards Manual) and this issue is not addressed in the statement to the FAC. Forestry is recognised as a potential pressure on this sub catchment in the Water Framework Directive Assessment. In the DAFM statement, it is suggested that 20% of the site will be planted with broadleaves but this is not reflected in the application or the licence which has been issued, which includes replanting with 60% Sitka spruce and 40% lodgepole pine and an unplanted area of 0.16 ha. Taking account of the scale of the proposal, the FAC considers that the setback and conditions related to the protection of water quality are generally acceptable in this case, however, as noted the FAC concluded that further consideration of possible effects on Connemara Bog Complex SAC and SPA, including in combination with other plans and projects, are required.

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,

A handwritten signature in blue ink, appearing to read 'Pat Coman', is written over a horizontal line.

Pat Coman on behalf of the Forestry Appeals Committee

