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6th March, 2020

Subject: Appeal FAC083/2018 CN78158 - Forest Road licence Anskert, Leitrim

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I refer to your 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 CN78158 for the construction of 55m of forest road at Anskert, Leitrim was approved by the Department of Agriculture, Food and the Marine on 21st March 2018.

Hearing

An oral hearing was conducted by the FAC at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois on the 3rd March 2020.

In attendance at the oral hearing:

FAC Members:	Mr. Des Johnson (Chairperson), Mr. Pat Coman, Ms. Mary Lawlor & Mr Vincent Upton
Secretary to the FAC:	Ms. Ruth Kinehan
Appellant:	Not present
Applicant:	Not present

Department Representative: Mr. Seppi Honna, Ms Lisa Chigara

Decision

Having regard to the evidence, written and oral, before it and, in particular, the considerations and reasoning set out below, the FAC has decided to confirm the decision of the Minister regarding licence CN79165.

The decision was related to 55m forest road to service an area of 3.45ha due for first thinning of trees, planted in 2000. The proposed forest road (55 m) is 9.9 km northeast of Clooneen Bog SAC (002348). There is no hydrological connectivity from the project area to this Natura site.

The licence was issued with the following Environmental and Silvicultural Conditions:

- All guidelines to apply.

There are various forestry-related projects in the townlands of Anskert (either submitted and still under evaluation, or with valid licences/approval in place) as follows :- Forest Road CN82319, CN78158 Afforestation, CN76480, CN81863, CN76909, CN69469, CN79118, CN84024 and CN74892, Felling Licences : TFL00000917, TFL00332019, TFL00000917 and TFL00004817.

The submitted grounds of appeal related to the legality of the appropriate assessment undertaken by the DAFM. Specific reference was made to the suggested inclusion of mitigation measures and a lack of an in-combination assessment of other plans and projects.

The initial statement provided by the DAFM in response to the appeal stated it would confirm the licence, in response to a request for additional information from the FAC, the DAFM stated that the proposed development on its own was determined to not be capable of giving rise to a significant effect or effects on the integrity of any Natura 2000 sites in view of those sites' conservation objectives, because of:

- The absence of any aquatic zone within or adjoining the project area
- Other factors i.e. distance; qualifying interests of SACs; qualifying interest of SPA

The DAFM further stated that following an investigation into likely sources of effects that might give rise from a cumulative impact or in combination effect of the proposed development with other plans or projects it has been determined that there are no other extant or proposed plans or projects within those listed that are likely to give rise to a significant effect or effects on the integrity of any Natura 2000 sites in view of those sites' conservation objectives. In the determination regarding the potential in-combination effects the following were consulted :-

- Leitrim County Council
- An Bord Pleanála website
- EPA website
- Leitrim County Development Plan
- DAFM's iFORIS Mapviewer

There are three European sites within 15kms of the proposed site, notably Cloneen Bog SAC (9.9km distance), Lough Forbes Complex SAC SPA (10.4km) and Ballykenny-Fisherstown Bog SPA (10.4km). The area is rural and agricultural in nature with a number of existing semi-mature and mature forests and a dispersed settlement pattern. Given the nature and scale of the proposed development, the existing pattern of development in the area together with identified permitted projects, separation distances to the European sites and the absence of hydrological connectivity, the FAC concluded that the proposed development by itself, or in combination with other projects and land uses in the area, would not have an effect on European sites, having regard to the conservation objectives for those sites.

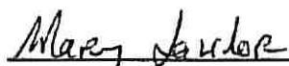
The FAC considered that none of the conditions attached to the licence require measures which are designed to mitigate effects on a European site, in this instance.

The FAC preliminary examination under environmental impact assessment and screening assessment for Appropriate Assessment of the possibility of significant effects on Natura 2000 sites are available on the public file.

Before making its decision, the FAC considered all of the information submitted with the application, the processing of the application by the DAFM including its screening for Appropriate Assessment, the grounds of appeal and submissions and observations received, including information provided at the Oral Hearing.

The confirming of this decision should not be interpreted as meeting any requirement to obtain planning permission under planning legislation in circumstances where the provisions of that legislation require permission to be obtained. If you are in any doubt as to whether planning permission is required, it is recommended that you contact the relevant planning authority for clarification.

Yours sincerely



Mary Lawlor on behalf of the Forestry Appeals Committee

