



An Coiste um Achomhairc
Foraoiseachta
Forestry Appeals Committee

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14th May 2020

Subject: Appeal FAC387/2019 CN82667

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 licence CN82667 at Meenymore, Co. Leitrim was issued by the Department of Agriculture, Food and the Marine on 13th November 2019.

Hearing

A hearing of appeal FAC387/2019 was held by the FAC on 25th March 2020

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

Decision

Having regard to the evidence 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 CN82667.

The licence pertains to afforestation of 13.34 hectares with 1,867 ha fencing. Of this area, 11.9 ha are to be planted with Sitka spruce and additional broadleaves, 0.68 ha of the area closest to the dwelling at the centre of the site would be planted with downy birch and other broadleaves, 0.76 ha would be unplanted open space. Site preparation would be through mounding with no additional drainage required and woody weed removal and manual control of weeds without the use of herbicides. Fertilisation at a rate of 250kg per ha of granulated rock phosphate would be undertaken. The site is currently enclosed agricultural land in animal production, it is described as exposed/moderately exposed at an elevation of 180 to 200 m with a grass, rush vegetation type with mineral/peat soil. The site has several existing hedgerows which will be maintained as part of the proposal. There are a number of archaeological features on the site which have been assessed by an independent archaeologist and the DAFM and setbacks are included around the features. The site is described by the DAFM and the Applicant's forester as having no rivers or streams. The Scardan River runs some 200 m to the south with agricultural land, mature forest and a public road in between the site and the river. There are extensive areas of forest in the area and adjoining the forest. There are a number of conditions attached to the licence including the following specific conditions,

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Adhere strictly to Archaeologist recommendation and report,

- Plant additional 10 rows of mixed broadleaves adjacent to all Archaeology setbacks.,*
- Consult with Local Engineer of Leitrim County Council prior to commencement of any work.,*
- Adhere to forestry & water quality guidelines,*
- All guidelines to apply.*

Specific Archaeological Conditions:

Archaeological exclusion zone/setback 30m in radius around the previously unrecorded enclosure identified through an initial study of the aerial photography and a subsequent archaeological assessment, as illustrated. Fencing, plus access. A structured programme of archaeological monitoring by a suitably qualified archaeologist retained at the licence holder's own expense (or that of his/her Registered Forester) will also be necessary for all ground preparation and drainage works undertaken in relation to the development in the fields adjacent to the site of the previously unrecorded cropmark enclosure, as highlighted in PINK on the map accompanying the archaeological report. A 10m unplanted buffer zone/setback to be established around any upstanding farm buildings, and a 5m unplanted buffer zone/setback around attached infields and either side of the historic laneway, as illustrated. See attached archaeological report and accompanying illustrative map for further details.

There was one appeal against the decision. The grounds of appeal expressed concern for the impact on the area, Meenymore, and suggested that it has hundreds of hectares of Sitka spruce plantation. It is stated that Meenymore is adjacent to Boleybrack SAC and Lough Gill SAC and should have been referred to the NPWS and the appellants have concerns in regards appropriate assessment screening, the SACs and the Hen Harrier. It is suggested that the lands are high nature value farmland. It is also suggested that there would be negative impact on water quality in Lough Gill which is the source of water for tens of thousands and impacts on archaeology and heritage.

In a statement from the DAFM stated it is satisfied that all criteria were adhered to and that it suggests no changes to the decision.

In considering the appeal and before reaching a decision the FAC undertook an appropriate assessment screening and examination in the context of the Environmental Impact Assessment Directive provisions, these considerations are available on the public file.

There are eight European sites within 15km from the proposed planting. The closest European site is the Boleybrack Mountain SAC the boundary of which lies c.1km to the east of the proposed planting. This SAC covers an area of 4,242 ha and its qualifying interests include a number of upland habitats. The proposed afforestation is on improved agricultural land with a grass, grass-rush vegetation type and is not described as a habitat associated with the SAC. Furthermore, the distance between the planting and the SAC is beyond the typical natural regeneration range of Sitka spruce. Downy birch and other native species would be part of the natural vegetation of this area. A network of rivers, a public road and existing mature forest lie between the proposed planting and the boundary of the SAC and the SAC is at a higher elevation from the planting site, which, in combination with the absence of a direct hydrological connection, would limit impacts of the afforestation on the hydrology or integrity of the SAC and its qualifying interests. The area has extensive semi-mature and mature forests and forest cover is provided as c.33% in the townland. There has been no other afforestation licenced within the last 3 years within 500m of the site. There are no recorded planning permissions in the vicinity. The Scardan River runs some 200m to the south of the proposed planting and flows south to Manorhamilton. While the general area drains into the Scardan river there is no direct hydrological connection from the site according to available information. This River forms part of the Lough Gill SAC but from some 3.7 km in direct

distance from the proposed planting and ultimately flows to Lough Gill itself. The qualifying interests of this SAC are a number of habitats and aquatic species. The habitats associated with this SAC are not present on the site, which is composed of agricultural land. In combination with the degree of separation and intermediary land uses this would preclude possible impacts of the afforestation and associated operations such as siltation or nutrient enrichment from occurring. This area is not classified as acid sensitive and the soil type is described as mixed mineral and peat. The percentage forest cover of the underlying waterbody catchment is given as 8.5%. Arroo Mountain SAC, Ben Bulbin, Gleniff and Glenade Complex SAC and Sligo/Leitrim Uplands SPA are all situated to the north-west of the site and at a considerable distance and different hydrological direction. The proposed afforestation lies well beyond the typical foraging ranges of the qualifying interests of the Sligo/Leitrim Uplands SPA. Cuilcagh - Anierin Uplands SAC lie some 14km from the site to the east on the opposite side of the Boleybrack mountains and no impacts could occur given the degree and nature of this separation. Lough Melvin SAC lies c.12km to the north of the site in a different catchment. Glenade Lough SAC lies c. 13km to the northwest and in a different hydrological direction. While rivers flowing from the Lough ultimately meet the Lough Gill SAC, possible impacts on the Glenade Lough SAC can be discounted for the same reasons as Lough Gill. Significant effects on European sites outside of the 15km radius are not considered possible given the nature and scale of the proposal and degree of separation. For these reasons and noting the scale and nature of the proposal, its proximity to European sites and those sites conservation objectives, the FAC concluded that this afforestation, alone or in combination with other plans or projects, would not result in the possibility of a significant effect on a European site.

Annex II of the EIA Directive lists classes of development for which Member States may set thresholds or criteria for requiring environmental impact assessment. One such class is "initial afforestation and deforestation for the purpose of conversion to another type of land use". This is transposed into Irish Regulations as afforestation involving an area of more than 50 ha; the Regulations also provide for the Minister to consider if sub-threshold developments are likely to have significant effects on the environment and, as such, require EIA.

The proposal is considerably sub-threshold for the mandatory submission of an Environmental Impact Assessment Report. As noted there are areas of existing forest in the vicinity but no additional afforestation has been licenced in the previous three years. There are no other projects in the vicinity that have received planning permission. The afforestation is proposed in a rural, agricultural area with areas of forest in the vicinity and in the wider landscape of the Boleybrack mountains. There are a small number of dwellings in the vicinity. The area is described as landscape sensitive by the Applicant's Forester and the DAFM. The application was referred to Leitrim County Council who did not raise any concerns regarding landscape impacts. The application was also referred to An Taisce who did not respond. The site is long and narrow and the western arm is screened from the public road by existing forests. The eastern arm fronts existing forest and is setback from the public road. There is a dwelling at the centre of the proposal which has existing mature forests to the north and south and the FAC is informed that the applicant consulted with the owner of this dwelling who did not object. There is an unplanted setback of 60 metres around this dwelling and plots of birch, a light-crowned native broadleaf, and other broadleaves adjacent to the setback. In the particular circumstances outlined, the FAC considers that the amenities of property in the vicinity would not be impacted to such a degree as would warrant cancellation of the licence. There are documented archaeological features in close proximity to the site. An archaeological assessment of the site was undertaken and the DAFM included conditions related to archaeological features, including the need for archaeological monitoring during ground preparations on part of the site. The FAC considers such measures to be acceptable.

According to the information provided the site is not crossed by any streams or rivers and is not hydrologically connected to any water bodies. There is no evidence that the proposal presents a significant threat to water quality. It is proposed to employ fertiliser at the establishment stage but no herbicides and the use of such inputs would not be out of keeping with land management practices in the area. The FAC considers there to be no likelihood of a significant effect on a European site as noted above and there are no NHAs or pNHAs in the vicinity. There are no NPWS records of Hen Harrier nesting on the site or within the general vicinity and no evidence was provided of this species use of the land. The site has no designation for conservation and there is no evidence that the site contains protected habitats or species. Existing hedgerows will be maintained on the site and the proposal includes areas of native broadleaf planting and open spaces which will provide additional biodiversity benefits. The proposal will increase carbon stored on the land over the long-term. Any impacts on the environment, positive or negative, are considered to be of a limited extent. Taking account of the nature, scale and location, including potential cumulative effects, of the proposal, the FAC considers that the proposal is not likely to have a significant effect on the environment and the submission of an Environmental Impact Assessment Report is not required.

The FAC considered that the proposal is consistent with Government policy and good forestry practice. 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 any submissions and observations received.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Coman', written over a horizontal line.

Pat Coman On Behalf of the Forestry Appeals Committee



Before reaching a decision the FAC undertook a screening of the proposal in relation to the requirements of the Habitats and EIA Directives. These considerations were based on information provided in the DAFM file, including the application, any additional information, the appeal, submissions and information in the public domain.

The licence pertains to afforestation of 13.34 hectares with 1,867 ha fencing. Of this area, 11.9 ha are to be planted with Sitka spruce and additional broadleaves, 0.68 ha of the area closest to the dwelling at the centre of the site will be planted with downy birch and other broadleaves, 0.76 ha will be open space. Site preparation will be through mounding with no additional drainage required and woody weed removal and manual control of weeds without the use of herbicides. Fertilisation at a rate of 250kg per ha of granulated rock phosphate will be undertaken. The site is currently enclosed agricultural land in animal production, it is described as exposed/moderately exposed at an elevation of 180 to 200 m with a grass, rush vegetation type with mineral/peat soil. The site has several existing hedgerows which will be maintained as part of the proposal. There are a number of archaeological features on the site which have been assessed by an independent archaeologist and the DAFM and setbacks are included around the features. The site is described by the DAFM and the Applicant's forester as having no rivers or streams. The Scardan River runs some 200 m to the south with agricultural land, mature forest and a public road in between the site and the river. There are extensive areas of forest in the area and adjoining the forest.

Appropriate Assessment Screening

There are eight European sites within 15km from the proposed planting which are listed below alongside their qualifying interests and distance to the afforestation site.

The closest European site is the Boleybrack Mountain SAC the boundary of which lies c.1km to the east of the proposed planting. This SAC covers an area of 4,242 ha and its qualifying interests cover a number of upland habitats listed below. The proposed afforestation is on improved agricultural land with a grass, grass-rush vegetation type and is not described as a habitat associated with the SAC. Furthermore, the distance between the planting and the SAC is beyond the typical natural regeneration range of Sitka spruce. Downy birch and other native species would be part of the natural vegetation of this area. A network of rivers, a public road and existing mature forest lie between the proposed planting and the boundary of the SAC and the SAC is at a higher elevation from the planting site, which, in combination with the absence of a direct hydrological connection, would limit impacts of the afforestation on the hydrology or integrity of the SAC and its qualifying interests. The area has extensive semi-mature and mature forests and forest cover is provided as c.33% in the townland. There has been no other afforestation licensed within the last 3 years within 500m of the site. There are no recorded planning permissions in the vicinity (based on myplan.ie). The FAC concluded that the proposed afforestation, alone or in combination with other plans or projects, would not result in the possibility of a significant effect on this SAC.

The Scardan River runs some 200m to the south of the proposed planting and flows south to Manorhamilton. This River forms part of the Lough Gill SAC some 3.7 km in direct distance from the proposed planting and ultimately flows to Lough Gill itself. The qualifying interests of this SAC are a number of habitats and aquatic species listed below. The habitats associated with this SAC are not present on the site, which is composed of agricultural land. While the general area drains into the Scardan river there is no direct hydrological connection from the site according to available information.

In combination with the degree of separation and intermediary landuses this would preclude impacts of the afforestation and associated operations such as siltation or nutrient enrichment from occurring. This area is not classified as acid sensitive and the soil type is described as mixed mineral and peat. The percentage forest cover of the underlying waterbody catchment is given as 8.5%. Other projects in the area have been noted previously. The FAC concluded that the proposed afforestation, alone or in combination with other plans or projects, would not result in the possibility of a significant effect on this SAC.

Arroo Mountain SAC, Ben Bulbin, Gleniff and Glenade Complex SAC and Sligo/Leitrim Uplands SPA are all situated to the north-west of the site and at a considerable distance and different hydrological direction. The proposed afforestation lies well beyond the typical foraging ranges of the qualifying interests of the Sligo/Leitrim Uplands SPA. Cuilcagh - Anierin Uplands SAC lie some 14km from the site to the east on the opposite side of the Boleybrack mountains and no impacts could occur given the degree and nature of this separation. Lough Melvin SAC lies c.12km to the north of the site in a different catchment. Glenade Lough SAC lies c. 13km to the northwest and in a different hydrological direction. While rivers flowing from the Lough ultimately meet the Lough Gill SAC, possible impacts on the Glenade Lough SAC can be discounted for the same reasons as Lough Gill. Significant effects on European sites outside of the 15km radius are not considered possible given the nature and scale or the proposal and degree of separation.

The FAC concluded that this afforestation, alone or in combination with other plans or projects, would not result in the possibility of a significant effect on a European site.

Site Type	Site Code	Site Name	Distance To (m)	Qualifying Interests
				(* denotes a priority habitat)
SAC	2032	Boleybrack Mountain SAC	1093.61	Habitats
				3160 Natural dystrophic lakes and ponds
				4010 Northern Atlantic wet heaths with <i>Erica tetralix</i>
				4030 European dry heaths
				6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinia caerulea</i>)
				7130 Blanket bogs (* if active bog)
SAC	1976	Lough Gill SAC	3731.43	Habitats
				3150 Natural eutrophic lakes with <i>Magnopotamon</i> or <i>Hydrocharitum</i> - type vegetation
				6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites)
				91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles
				91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>)*
				Species
				1106 Salmon (<i>Salmo salar</i>)
				1099 River Lamprey (<i>Lampetra fluviatilis</i>)

				1096 Brook Lamprey (<i>Lampetra planeri</i>)
				1355 Otter (<i>Lutra lutra</i>)
				1095 Sea Lamprey (<i>Petromyzon marinus</i>)
				1092 White-clawed Crayfish (<i>Austropotamobius pallipes</i>)
SAC	1403	Arroo Mountain SAC	9442.9	Habitats
				4010 Northern Atlantic wet heaths with <i>Erica tetralix</i>
				4030 European dry heaths
				4060 Alpine and Boreal heaths
				7130 Blanket bogs (* if active bog)
				7220 Petrifying springs with tufa formation (<i>Cratoneurion</i>)*
				8120 Calcareous and calcshist screes of the montane to alpine levels (<i>Thlaspietea rotundifolii</i>)
				8210 Calcareous rocky slopes with chasmophytic vegetation
SAC	428	Lough Melvin SAC	11711.6	Habitats
				3130 Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i>
				6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>)
				Species
				1106 Salmon (<i>Salmo salar</i>)
				1355 Otter (<i>Lutra lutra</i>)
SAC	623	Ben Bulbin, Gleniff and Glenade Complex SAC	12686.47	Habitats
				3260 Water courses of plain to montane levels with the <i>Ranunculum fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation
				4010 Northern Atlantic wet heaths with <i>Erica tetralix</i>
				4030 European dry heaths
				4060 Alpine and Boreal heaths
				5130 <i>Juniperus communis</i> formations on heaths or calcareous grasslands
				6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites)
				6230 Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)*
				6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels

				7140 Transition mires and quaking bogs
				7220 Petrifying springs with tufa formation (Cratoneurion)*
				7230 Alkaline fens
				8110 Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani)
				8120 Calcareous and calcshist screes of the montane to alpine levels (Thlaspietalia rotundifolii)
				8210 Calcareous rocky slopes with chasmophytic vegetation
				Species
				1355 Otter (Lutra lutra)
				1013 Geyer's Whorl Snail (Vertigo geyeri)
SAC	1919	Glenade Lough SAC	12783.95	Habitats
				3150 Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation
				Species
				1092 White-clawed Crayfish (Austropotamobius pallipes)
				1833 Slender Naiad (Najas flexilis)
SAC	584	Cuilcagh - Anierin Uplands SAC	13849.82	Habitats
				3110 Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae)
				3160 Natural dystrophic lakes and ponds
				4010 Northern Atlantic wet heaths with Erica tetralix
				4030 European dry heaths
				4060 Alpine and Boreal heaths
				6230 Species-rich Nardus 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)*
				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)
SPA	4187	Sligo/Leitrim Uplands SPA	14096.01	Birds
				A346 Chough (Pyrrhocorax pyrrhocorax)

				A103 Peregrine (<i>Falco peregrinus</i>)
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EIA Preliminary Examination

The proposal is for afforestation of 13.34 hectares which is considerably sub-threshold for the mandatory submission of an Environmental Impact Assessment Report. As noted there are areas of existing forest in the vicinity but no additional afforestation has been licensed in the previous three years. There are no other projects in the vicinity that have received planning permission.

The afforestation is proposed in a rural, agricultural area with areas of forest in the vicinity and in the wider landscape of the Boleybrack mountains. There are a small number of dwellings in the vicinity. The area is described as being of high landscape sensitivity by the Applicant's Forester and the DAFM. The application was referred to Leitrim County Council who did not raise any concerns regarding landscape impacts. The application was also referred to An Taisce who did not respond. The site is long and narrow and the western arm is screened from the public road by existing forests. The eastern arm fronts existing forests and is setback from the public road. There is a dwelling at the centre of the proposal which has existing mature forests to the north and south. There is an unplanted setback of 60 metres around this dwelling and plots of birch, a light-crowned native broadleaf, and other broadleaves adjacent to the setback. The proposal will have a visual impact on this dwelling on both the western and eastern side. A site notice was placed on the public road close to this dwelling and no observation or submission from the occupant was included on the DAFM file. Furthermore, no appeal was made by the owner to the FAC. An archaeological assessment of the site was undertaken and the DAFM included conditions related to archaeological features. There are documented archaeological features in close proximity to the site.

According to the information provided the site is not crossed by any streams or rivers and is not hydrologically connected to any water bodies. There are no records of Hen Harrier nesting on the site or within the general vicinity. The FAC considers there to be no possibility of a significant effect on a European site as noted above and there are no NHAs or pNHAs in the vicinity. Existing hedgerows will be maintained on the site and the proposal includes areas of native broadleaf planting and open spaces which will provide additional biodiversity benefits. The proposal will increase carbon stored on the land over the long-term. Any impacts on the environment, positive or negative, are considered to be of a limited extent. Taking account of the nature, scale and location, including potential cumulative effects, of the proposal, the FAC considers that the proposal is not likely to have a significant effect on the environment and that screening for Environmental Impact Assessment or the submission of an Environmental Impact Assessment Report is not required.

Vincent Upton On Behalf of the Forestry Appeals Committee

