



An Coiste um Achomhairc
Foraoiseachta
Forestry Appeals Committee

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14th May 2020

Our Ref.: FAC445/2019

Subject: Appeal against felling licence TFL00393919

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 TFL00393919 for 8.36 ha of felling and replanting at Annaghamaddoo, Co. Leitrim was issued by the Department of Agriculture, Food and the Marine on 13th December 2019.

Hearing

A hearing of appeal FAC445/2019 was held by the FAC on 12th May 2020.

FAC Members: Mr. Des Johnson (Chairperson), Mr. Jim Byrne, Mr. Pat Coman, 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 TFL00393919.

The proposal is for felling and replanting of 8.36 ha of forest at Annaghamaddoo, Leitrim. The forest is laid out across five plots and is comprised of Sitka spruce, Norway spruce and Japanese larch. Three felling interventions are proposed with thinning in 2020 and 2025 and clearfelling in 2029 before replanting with Sitka spruce. The forest is situated in the Upper Shannon Catchment but is not crossed or adjoined by any marked rivers or streams. A small lake Loughtown Lough lies to the northwest some 80 m from the corner of plots 1 and 2, the combined area of these plots is 1 hectare. A minor public road runs along part of the site and an ESB line crosses a section. The application notes that neighbouring dwellings will be consulted before operations commence and also that operations will be planned for the drier months of the summer. The proposal was referred to Leitrim County Council and the National Parks and Wildlife Service. Only the Council responded and noted that the site is not within a designated area in the County Development Plan and was situated in an area with a high capacity to accommodate forestry. They also requested that guidelines be adhered to and that the Council be contacted before operations commence. The licence was issued with a number of specific conditions

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including a requirement to consult with the Council before works commence and restrictions regarding when operations can be undertaken as the forest is situated within an important area for breeding curlew.

There was one appeal against the licence which suggested that as there are Natura 2000 sites situated within the 15km zone of impact that an appropriate assessment is required. The Appellant also suggests that the DAFM did not provide the evidence on which their responses to the appropriate assessment screening were based. They suggest that in the circumstances the only legal answer is that the application has been screened in for appropriate assessment.

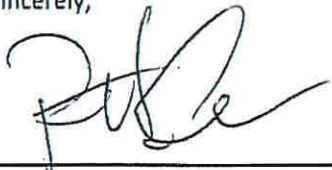
In a statement to the FAC, the DAFM suggested that the nearest Natura 2000 site is an upland bog SAC located 12 km to the North of the proposal. They suggest that the site does not adjoin any watercourses and is not physically connected to any Natura 2000 site and that it is also outside the foraging range of protected species. They note that the area is considered important for curlew breeding and that restrictions are on the licence in this regard.

In considering the appeal and before making its decision the FAC undertook an appropriate assessment screening of the proposal in line with the requirements of the Habitats Directive. These considerations are contained on the public file.

There is one European site within 15km, Cullcagh - Anlierin Uplands SAC, which lies 12km to the north. In addition to being at a considerable distance from the site it is located in a different river catchment and there is no hydrological connection and the habitats and species associated with the SAC have not been recorded on the proposal site which is a coniferous forest. The site is not of a nature or scale that could result in significant effects outside of the 15km radius. The area is rural and there are few other projects in the vicinity. Forestry projects include a 117 metre forest road (CN85422) and afforestation of 7.29 ha (CN71557). The proposal would not result in additional impacts on a European site, taking other plans and projects into account. Having regard to the nature and scale of the project, its proximity to European sites and their conservation objectives, the FAC concluded that the proposal, itself or in combination with other plans and projects, would not result in the possibility of a significant effect on a European site arising.

The FAC concluded that the proposal is in line 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, the grounds of appeal and submissions received.

Yours sincerely,



Pat Coman, on behalf of the Forestry Appeals Committee



FAC445/2019 TFL00393919 Assessment

13th May 2020

The proposal is for felling and replanting of 8.36 ha of forest at Annaghnammaddoo, Leitrim. The forest is laid out across five plots and is comprised of Sitka spruce, Norway spruce and Japanese larch. Three felling interventions are proposed with thinning in 2020 and 2025 and clearfelling in 2029 before replanting with Sitka spruce. The forest is situated in the Upper Shannon Catchment but has no marked rivers or streams. A small lake Loughtown Lough lies to the northwest some 80 m from corner of plots 1 and 2, which combined make up about 1 hectare of the total. A public road runs along part of the site and an ESB line crosses a section. The application notes that neighbouring dwellings will be consulted before operations and also that operations will be planned for the drier months of summer.

Appropriate Assessment Screening

There is one European site within 15km, Cuilcagh - Anierin Uplands SAC, which lies 12km to the north. In addition to being at a considered distance from the site it is located in a different river catchment, with no hydrological connection, and the habitats and species associated with the SAC have not been recorded on the proposal site which is a coniferous forest. The site is not of a nature or scale that could result in significant effects outside of the 15km radius. The area is rural and there are few other projects in the vicinity. Forestry projects include a 117 metre forest road (CN85422) and afforestation of 7.29 ha (CN71557). The proposal would not result in additional impacts on a European site, taking other plans and projects into account. Having regard to the nature and scale of the project, its proximity to European sites and their conservation objectives, the FAC concluded that the proposal, itself or in combination with other plans and projects, would not result in the possibility of a significant effect on a European site arising.

Site Type	Site Code	Site Name	Distance To (m)	Qualifying Interests	Conservation Objectives
				(* denotes a priority habitat)	
SAC	584	Cuilcagh - Anierin Uplands SAC	12008.03	Habitats	http://www.npws.ie/sites/default/files/protected-sites/conservation/objectives/CO000584.pdf
				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 (<i>Drepanocladus vernicosus</i>)	

EIA Examination

The EU EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU) sets out, in Annex I a list of projects for which EIA is mandatory. Annex II 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 I. Annex II 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 II). The Irish Forestry 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. Thus the FAC considers that 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).

As noted the proposal is for felling and replanting of 8.36 ha of commercial forest. The proposal was referred to the County Council which noted that it is not in a designated area in the County Development Plan and is in an area considered to have a high capacity to accommodate forestry. The general area is rural comprised primarily of agricultural and forest land. There is a condition on the licence in relation to reducing impacts on curlew as the general area is considered important for this protected species. There are few other projects in the area. Having regard to the nature, scale and location of the proposal, and other projects, the FAC concluded that there is no real likelihood of the proposal having a significant effect on the environment.

Vincent Upton on behalf of the FAC