



**An Coiste um Achomhairc  
Foraoiseachta**

**Forestry Appeals Committee**

**28 May 2020**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Our ref: FAC 297/2019**

**Subject: Appeal in relation to afforestation licence CN84042**

**Dear [REDACTED]**

I refer to the appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine in respect of afforestation licence CN84042.

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 the parties to the appeal.

**Background**

Afforestation licence CN84042 was granted by the Department on 15 October 2019.

**Hearing**

A hearing of appeal 297/2019 was conducted by the FAC on 19 May 2020.

**FAC Members:**

Mr Des Johnson (Chairperson), Mr Vincent Upton, Mr Jim Byrne and  
Mr Pat Coman

**Decision**

The Forestry Appeals Committee (FAC) considered all of the documentation on the file, including application details, processing of the application by DAFM and the grounds of appeal, before deciding to confirm the licence (Reference CN 84042).

The proposal is for afforestation on a stated site area of 5.66ha, on 2 plots at Aghalackan, Co. Cavan. Planting is to be an integrated mix of ADB and Sitka Spruce applying slit planting. Soil type is stated to be mineral and the site is exposed with grass, grass rush and bracken/briars. Woody weed removal is proposed and herbicide would be used in years 1 and 2; 250kg granulated rock phosphate would be applied. The EPA website shows a stream at the eastern boundary of the proposed site flowing northwards and another stream adjacent to the south western corner of the proposed site flowing eastwards to a small lake (Gortnakillew Lake). An ESB line crosses the centre of the subject

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lands. The wider area is rural and agricultural in character with a significant but mostly dispersed settlement pattern.

The DAFM approved the Licence on 15<sup>th</sup> October 2019, subject to standard conditions.

There is a single appeal against the decision to approve the Licence. The grounds contend that, based on the information supplied, it is not possible to grant approval in accordance with the provisions of the Habitats and EIA Directives. Reference is made to relevant Court Judgments. A proper assessment is lacking, and there is no assessment of cumulative impacts.

In response, the DAFM Inspector states that Natura 2000 sites within 15km were examined (after the issuing of the Licence). L. Oughter SAC/SPA are approx. 8km distance and there is no hydrological connectivity. Reference is made to the County Development Plan, and websites – ABP, EPA – were referenced. Non-forestry projects include dwellings and extensions, agriculture shed, sewage/sludge facility. There would be no effect from the proposed development alone, or in combination with any Natura 2000 site.

Prior to making its decision, the FAC carried out a screening in accordance with the provisions of the Habitats Directive and an examination in respect of the EIA. The screening and examination are available on the public file. Having regard to the nature and scale of the proposed development, the FAC considered that the screening assessment for appropriate assessment should refer to all Natura 2000 sites within 15km radius of the proposed site. There are two such sites as follows:

- Lough Oughter & Associated Loughs SAC
- Lough Oughter Complex SPA

These sites are approximately 8.13km from the proposed site. The qualifying interests and conservation objectives for the listed sites were considered. There is no hydrological connectivity between the proposed site and either of these Natura 2000 sites or any other Natura 2000 sites. The proposed site contains none of the listed habitats and does not provide suitable nesting or foraging habitat for any listed species. The proposed development is not directly connected with or necessary for the management of any Natura 2000 site. Having regard to the nature and scale of the proposal, the separation distance to the listed Natura 2000 sites, the absence of hydrological connectivity and to the qualifying interests of the listed sites, the FAC concluded that there is no likelihood of significant effects on the listed sites or any other Natura 2000 sites, arising from the proposed development. Furthermore, having regard to the nature of the surrounding area and to details of other projects, there is no likelihood of the proposed development, in combination with other projects or land uses, resulting in significant effects on any Natura 2000 site.

The FAC noted that Directive (2011/92/EU), as amended by the 2014 EIA Directive (2014/52/EU), lists, in Annex II under 1(d), *initial afforestation and deforestation for the purposes of conversion to another type of land use*. The provisions of the Directive are transposed into Irish forestry legislation by SI No.191 of 2017, which sets a threshold for mandatory EIA as follows: *afforestation which would involve an area of 50ha or more*. The proposed project (5.66ha) is clearly sub-threshold for the purposes of the Directive and, as such, does not require mandatory EIA.

Having regard to the nature and scale of the proposed afforestation, the nature of the surrounding environment which is characterised by agricultural land use and a significant but dispersed settlement pattern, and to the absence of any specific amenity or environmental designations





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relating to the proposed site, the FAC concluded that there is no real likelihood of significant effects on the environment arising from the proposed afforestation either by itself or cumulatively with other projects and land uses in the area, and that the need for environmental impact assessment can be excluded without the requirement for a formal screening.

In deciding to confirm the decision to approve the Licence, the FAC considered that the proposed development accords with Government policy and Good Forestry Practice.

Yours sincerely,

Pat Coman, on behalf of the Forestry Appeals Committee



## **CN 84042 Assessments**

### **Proposed Development and Location**

The proposal is for afforestation on a stated site area of 5.66ha, on 2 plots at Aghalackan, Co. Cavan. Planting is to be an integrated mix of ADB and Sitka Spruce applying slit planting. Soil type is stated to be mineral and the site is exposed with grass, grass rush and bracken/briars. Woody weed removal is proposed and herbicide would be used in years 1 and 2; 250kg granulated rock phosphate would be applied. The EPA website shows a stream at the eastern boundary of the proposed site flowing northwards and another stream adjacent to the south western corner of the proposed site flowing eastwards to a small lake (Gortnakillew Lake). There is an ESB line crossing the centre of the subject lands. The wider area is rural and agricultural in character with a significant but mostly dispersed settlement pattern.

### **Appropriate Assessment Screening**

Having regard to the nature and scale of the proposed development, it is considered appropriate that the screening assessment for appropriate assessment should refer to all Natura 2000 sites within 15km radius of the proposed site.

There are 2 Natura 2000 sites within a 15km radius. These are as follows:

- Lough Oughter & Associated Loughs SAC
- Lough Oughter Complex SPA

These sites are approximately 8.13km from the proposed site. The qualifying interests and conservation objectives for the sites are as follows:

#### ***Lough Oughter & Associated Loughs SAC***

##### ***Qualifying Interests***

Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150]

Bog woodland [91D0]

Lutra lutra (Otter) [1355]

##### ***Conservation Objective***

To maintain or restore the favourable conservation condition of Annex 1 habitats and/or the Annex II species for which the SAC has been selected.

#### ***Lough Oughter Complex SPA***

##### ***Qualifying Interests***

Great Crested Grebe (*Podiceps cristatus*) [A005]

Whooper Swan (*Cygnus cygnus*) [A038]

Wigeon (*Anas penelope*) [A050]



### *Conservation Objective*

To maintain or restore the favourable conservation condition of the bird species listed as special conservation interests for this SPA.

The EPA website shows a stream (Drumoghra Stream) approximately 170 metres from the north eastern corner of the subject lands and this has hydrological connection to the Lough Oughter & Associated Loughs SAC at a distance of approximately 16km; there is no hydrological connection from the subject site to this stream. There is another stream approximately 120m from the southern site boundary and there is no hydrological connection from the subject lands to this stream. There is no hydrological connectivity between the proposed site and either of these Natura 2000 sites or any other Natura 2000 sites. The proposed site contains none of the listed habitats and does not provide suitable nesting or foraging habitat for any listed species. The proposed development is not directly connected with or necessary for the management of any Natura 2000 site. Having regard to the nature and scale of the proposal, the separation distance to the listed Natura 2000 sites, the absence of hydrological connectivity to listed Natura 2000 sites and to the qualifying interests of those sites, there is no likelihood of significant effects on the listed sites or any other Natura 2000 sites, arising from the proposed development. Furthermore, having regard to the nature of the surrounding area and to details of other projects, there is no likelihood of the proposed development, in combination with other projects or land uses, resulting in significant effects on any Natura 2000 site.

### **EIA Preliminary Examination**

Directive (2011/92/EU), as amended by the 2014 EIA Directive (2014/52/EU), lists, in Annex II under 1(d), *initial afforestation and deforestation for the purposes of conversion to another type of land use*. The provisions of the Directive are transposed into Irish forestry legislation by SI No.191 of 2017, which sets a threshold for mandatory EIA as follows: *afforestation which would involve an area of 50ha or more*. The proposed project (5.66ha) is clearly sub-threshold for the purposes of the Directive and, as such, does not require mandatory EIA.

Potential impacts arising from the proposed afforestation by itself and cumulatively with other projects in the area, include visual impacts which will change as the forestry matures, minor disturbance during ground preparation and planting, and the permanent conversion of the land from agricultural use to forestry. The EPA website shows a stream (Drumoghra Stream) approximately 170 metres from the north eastern corner of the subject lands and this has hydrological connection to the Lough Oughter & Associated Loughs SAC at a distance of approximately 16km; there is no hydrological connection from the subject site to this stream. There is another stream approximately 120m from the southern site boundary and there is no hydrological connection from the subject lands to this stream. The proposed development would not be likely to have a significant impact on this waterway by reason of run-off and/or siltation during ground preparation and planting. The maturing forest may have limited benefit in respect of carbon storage. Having regard to the nature and scale of the proposed afforestation, the nature of the surrounding environment which is

characterised by agricultural land use and a significant but dispersed settlement pattern, and to the absence of any specific amenity or environmental designations relating to the proposed site, the FAC concludes that there is no real likelihood of significant effects on the environment arising from the proposed afforestation either by itself or cumulatively with other projects and land uses in the area, and that the need for environmental impact assessment can be excluded without the requirement for a formal screening.

Des Johnson

On behalf of the Forestry Appeals Committee

19<sup>th</sup> May 2020

