



**An Coiste um Achomhairc
Foraoiseachta**

Forestry Appeals Committee

22 April 2020

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[REDACTED]
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Our ref: FAC 225/2019

Subject: Appeal in relation to felling licence TFL00272019

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 felling licence TFL00272019.

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

Felling licence TFL00272019 was granted by the Department on 27 August 2019.

Hearing

A hearing of appeal 225/19 was conducted by the FAC on 14 April 2020.

FAC Members:

Mr Des Johnson (Chairperson), Mr Vincent Upton, Ms Mary Lawlor
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, the grounds of appeal, all submissions/observations, and carried out a Stage 1 screening in accordance with the provisions of the Habitats Directive and an examination in respect of EIA before deciding to confirm the Licence (TFL 00272019).

The proposal is for felling on a stated site area of 5.13ha at Derricknew, Killanaule, Thurles, Co. Tipperary. The lands are in 2 plots. Thinning is proposed in years 2019 and 2024.

The DAFM granted the Licence dated 27.08.19 subject to conditions.

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There is a single appeal against the DAFM decision to grant the Licence. The grounds of appeal contend that based on the information submitted it is not possible to grant a licence in accordance with the requirements of the EIA and Habitats Directives. Reference is made to Court judgments. The appellant further contends that there was no assessment undertaken of cumulative effects.

In response to the grounds of appeal the District Inspector states that the adoption of new assessment procedures by the DAFM would warrant cancellation of the Licence and the submission of a new application.

The FAC sought further information from the DAFM in respect the consideration of any mitigation measures considered at the time of screening for appropriate assessment and details of other plans and projects taken into account in considering in-combination effects. In response the DAFM state that mitigation measures were not taken into account, that the proposed development on its own is not capable of giving rise to a significant effect on any Natura site because of the absence of an aquatic zone within or adjoining the project area, and details are provided of other projects - Afforestation (4), Roads (5), Felling (7), Coillte felling (14).

The FAC undertook a Stage 1 screening for appropriate assessment and this, together with an examination in respect of likely impacts on the environment, is contained on the public file. There are two Natura 2000 sites within a 15km radius of the proposed site. The Lower River Suir SAC is at a distance of 9840km and the River Barrow and Nore SAC is at a distance of 11590km. There is no hydrological connectivity from either of the proposed felling plots to these Natura 2000 site. This is a heavily forested area but neither of the two plots adjoin existing forestry which, in itself is hydrologically connected to a Natura 2000 site. Having regard to this lack of hydrological connectivity, combined with the nature and scale of the proposal, the separation distances to the listed Natura 2000 sites and the qualifying interests of those sites, the FAC concluded that there is no possibility that the proposed felling would have a significant effect on a Natura 2000 site. Furthermore, there is no possibility of the proposed felling in-combination with other projects in the area, including a significant number of felling licences granted over the past 5 years and peat harvesting, having a significant effect on any Natura 2000 site. It is noted that the two sites listed both have the freshwater pearl mussel as a qualifying interest, and the River Barrow and River Nore SAC also has the Nore Pearl Mussel as a qualifying interest. Both of these species are very susceptible to changes in water quality and, in particular, sedimentation. Having regard to the nature and scale of the proposed felling, the absence of any hydrological connectivity and the separation distances, there is no likelihood of any detrimental impact arising from the proposed felling on these species, or on any of the other habitats and species for which the two listed SACs are designated.

The proposed felling is not directly connected with or necessary to the management of any Natura 2000 site. There are no measures in the proposal designed to avoid or reduce effects on any Natura 2000 site.

The proposed felling does not come within a class of development covered by the Environmental Impact Assessment Directive (2011/92/EU as amended by 2014/52/EU). However, having regard to the nature and scale of the proposal, the location of the site and the characteristics of the surrounding area, the FAC concluded that the proposed development by itself, or cumulatively with other permitted projects would not be likely to give rise to significant effects on the environment.



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In deciding to confirm the Licence the FAC considered the proposed development to accord with Government policy and Good Forestry practice.

Yours sincerely,

Pat Coman, on behalf of the Forestry Appeals Committee

TFL 00272019

Proposed Development

The proposal is for felling on a stated site area of 5.13ha at Derricknew, Killanaule, Thurles, Co. Tipperary. The lands are in 2 plots. Thinning is proposed in years 2019 and 2024.

Licence dated 27.08.19. Subject to conditions.

Appropriate Assessment Screening

There are two Natura 2000 sites within 15km of the proposed felling site as follows:

1. Lr River Suir SAC 9840km
2. R Barrow & Nore SAC 11590km

The qualifying interests for these two sites are listed as follows:

Lower River Suir SAC

Qualifying Interests

- Atlantic salt meadows
- Mediterranean salt meadows
- Water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*
- *Taxus baccata* woods of the British Isles
- Freshwater Pearl Mussel
- White-clawed Crayfish
- Sea Lamprey
- Brook Lamprey
- River Lamprey
- Twite Shad
- Salmon
- Otter

River Barrow & River Nore SAC

Qualifying Interests

- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Reefs
- *Salicornia* and other annuals colonising mud and sand
- Atlantic salt meadows
- Mediterranean salt meadows
- Water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation
- European dry heaths
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
- Petrifying springs with tufa formation

- Old sessile oak woods with Ilex and Blechnum in the British Isles
- Alluvial forests
- Desmoulin's Whorl Snail
- Freshwater Pearl Mussel
- White-clawed Crayfish
- Sea Lamprey
- Brook Lamprey
- River Lamprey
- Twaite Shad
- Salmon
- Otter
- Killarney Fern
- Nore Pearl Mussel

There is no hydrological connectivity from either of the proposed felling plots to any Natura 2000 site. This is a heavily forested area but neither of the two plots adjoin existing forestry which, in itself is hydrologically connected to any Natura 2000 site. Having regard to this lack of hydrological connectivity, combined with the nature and scale of the proposal, the separation distances to the listed Natura 2000 sites and the qualifying interests of those sites, it is concluded that there is no possibility that the proposed felling would have a significant effect on a Natura 2000 site. Furthermore, there is no possibility of the proposed felling in-combination with other projects in the area, including a significant number of felling licences granted over the past 5 years and peat harvesting, having a significant effect on any Natura 2000 site. It is noted that the two sites listed both have the freshwater pearl mussel as a qualifying interest, and the River Barrow and River Nore SAC also has the Nore Pearl Mussel as a qualifying interest. Both of these species are very susceptible to changes in water quality and, in particular, sedimentation. Having regard to the absence of any hydrological connectivity and the separation distances, there is no possibility of any detrimental impact on these species, or any of the other habitats and species for which the two SACs are designated.

The proposed felling is not directly connected with or necessary to the management of any Natura 2000 site. There are no measures in the proposal designed to avoid or reduce effects on any Natura 2000 site.

Environmental Impact Examination

The proposed felling does not come within a class of development covered by the Environmental Impact Assessment Directive (2011/92/EU as amended by 2014/52/EU). However, having regard to the nature and scale of the proposal, the location of the site and the characteristics of the surrounding area, it is concluded that the proposed development by itself, or cumulatively with other permitted projects would not be likely to give rise to significant effects on the environment.

Des Johnson. 21.04.20. (on behalf of the Forestry Appeals Committee).