



**An Coiste um Achomhairc  
Foraoiseachta  
Forestry Appeals Committee**

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

24<sup>th</sup> April 2020

**Our ref: FAC230/2019**

**Subject: Appeal in relation to felling licence TFL00279919**

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 licence TFL00279919. 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**

Licence TFL00279919 for felling and replanting at Graigueshoneen, Waterford was granted by the Department of Agriculture, Food and the Marine on 28<sup>th</sup> August 2019.

#### **Hearing**

A hearing of appeal FAC230/2019 was conducted by the FAC on 14<sup>th</sup> April 2020.

**FAC Members:** Mr Des Johnson (Chairperson), Mr Vincent Upton, Ms Mary Lawlor and Mr Pat Coman

#### **Decision**

Having regard to the evidence before it and the following considerations, the Forestry Appeals Committee (FAC) has decided to confirm the decision of the Minister of Agriculture, Food and the Marine regarding licence TFL00279919.

The felling licence was issued for 2.18 ha in Graigueshoneen, Waterford for thinning and clearfell with replanting of a number of stands. The forest is composed of 0.77ha Sitka spruce for clearfell and 1.41ha of Sitka spruce, Douglas fir, beech, ash for thinning. Replanting of the 0.77ha to be clearfelled with beech and Scots pine (80:20 ratio) is proposed. The application was referred to Waterford Co. Co. and Inland Fisheries and neither made a response. The site is described as dry on a mineral soil and varies from flat to steep. The Mahon River runs adjacent to part of the forest and the Waterford Greenway runs close to the southern side. The licence was issued with a number of conditions including:

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- *Adhere to Harvest and Replanting Plan submitted. Applicant to be cognizant of water abstraction point ca 1 km downstream.*
- *Harvest operations warning signage to be erected along Waterford Green Way adjoining S boundary.*
- *Water Buffer Zone Setback 10m.*

The grounds of appeal claimed that based on the information supplied it is not possible to make a decision which would be in compliance with the requirements of the Habitats and EIA directives, and having regard to a number of judgements of the Court of Justice of the European Union. In addition the appellants claimed that there was no assessment of cumulative effects.

The Department of Agriculture, Food and the Marine (DAFM) statement to the FAC in response to the appeal stated that it was satisfied that the licence met its criteria and guidelines and that no change was recommended. The DAFM Inspector described the site and observed its proximity to European sites. They also referred to the harvesting and reforestation plan that was submitted and to the conditions attached to the licence some of which relate to a water abstraction point and the greenway.

Before making its decision the FAC undertook an appropriate assessment screening and examined the proposal regarding the EIA Directive. These were based on the information provided by the parties and information available in the public domain and are available on the public file.

There are four European sites within 15km from the forest. The boundary of the Comeragh mountains SAC lies some 5.2 km to the west of the forest. The Mahon river flows from the Comeraghs and runs adjacent to a part of the felling site. The Comeragh mountains SAC covers an extensive area and has qualifying interests of habitats and a species associated with upland areas. The proposal is for felling and some replanting in a primarily coniferous forest which is not a habitat listed as a qualifying interest of the SAC. The SAC is at a significant remove from the proposal and upstream from it. The proposal is not of a scale that could alter the hydrology of the river to an extent that could lead to significant effects on the SAC, taking account of other forests and projects in the vicinity. The boundary of the Mid-Waterford Coast SPA is 8.5 km from the site and the Mahon River enters the sea at this coast although not into the SPA itself. The SPA lies at a considerable distance from the proposal and has qualifying interests of seabirds that would not rely on coniferous forest as an important foraging area or habitat in any case. Lower River Suir SAC has qualifying interests of riparian habitats and species. A boundary of the SAC lies some 8km from the site in a different catchment with no hydrological connection. Glendine Wood SAC includes the Killarney Fern as its qualifying interest and lies at a considerable distance from the forest. Within the townland there are a number of other forestry licences, including a number for felling. There have also been permissions granted for a number of other developments in the townland. The FAC concluded that the proposal covered by licence TFL00279919 would not, itself or in combination with other plans and projects, result in the possibility of a significant effect on a European site from arising.



The EU Environmental Impact Assessment (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. 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 2017 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 licensed in this case, 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). In addition to not being of a class covered by the Annexes of the EIA Directive, the proposal is not considered likely to result in a significant effect on the environment.

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 making its decision to confirm this licence the FAC undertook an appropriate assessment screening and examined the proposal regarding the EIA Directive. These were based on the information provided by the parties and information available in the public domain.

#### Appropriate Assessment Screening

The felling licence was issued by the Department of Agriculture, Food and the Marine for 2.18 ha in Graigueshoneen, Waterford in the Colligan-Mahon catchment. The proposal is for thinning and clearfell. The forest is composed of 0.77ha Sitka spruce, for clearfell and 1.41ha of Sitka spruce, Douglas fir, beech, ash for thinning. Replanting of the 0.77ha to be clearfelled with beech and Scots pine (80:20 ratio) is proposed. The site is described as dry on a mineral soil and varies from flat to steep. The Mahon River runs adjacent to part of the forest. There are four European sites within 15km from the forest and their qualifying interests and direct distances to the forest are listed below.

The boundary of the Comeragh mountains SAC lies some 5.2 km to the west of the forest. The Mahon river flows from the Comeraghs and runs adjacent to a part of the felling site. The Comeragh mountains SAC covers an extensive area and has qualifying interests of habitats and a species associated with upland areas. The proposal is for felling and some replanting in a primarily coniferous forest which is not a habitat listed as a qualifying interest of the SAC. The SAC is at a significant remove from the proposal and upstream from it. The proposal is not of a scale that could alter the hydrology of the river to an extent that could lead to significant effects on the SAC, taking account of other forests and projects in the vicinity. The boundary of the Mid-Waterford Coast SPA is 8.5 km from the site and the Mahon river enters the sea along the coast although not into the SPA itself. The SPA lies at a considerable distance from the proposal and has qualifying interests that would not rely on coniferous forest as an important foraging area or habitat in any case. Lower River Suir SAC lies some 8km from the forest in a different catchment with no hydrological connection. Glendine Wood SAC includes the Killarney Fern as its qualifying interest and lies at a considerable distance beyond the capacity of plants in either area to regenerate or for the proposal to impact on the hydrology of the SAC. Within the townland there are a number of other forestry licences, including a number for felling. There have also been permissions granted for a number of other developments in the townland. Having regard to the small scale and location of the proposal, other developments in the area, the qualifying interests of Natura 2000 sites, and the separation distances the FAC concludes that there is no likelihood of significant effects on any Natura 2000 site from the proposal alone or in combination with other plans or projects.

Site Type	Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
SAC	1952	Comeragh Mountains SAC	5212.28	<b>Habitats</b> 3110 Oligotrophic waters containing very few minerals of sandy plains ( <i>Littorelletalia uniflorae</i> ) 3260 Water courses of plain to montane levels with the <i>Ranunculus fluitans</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



				<p>8110 Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani)</p> <p>8210 Calcareous rocky slopes with chasmophytic vegetation</p> <p>8220 Siliceous rocky slopes with chasmophytic vegetation</p> <p><b>Species</b></p> <p>1393 Slender Green Feather-moss (<i>Drepanocladus vernicosus</i>)</p>
SAC	2137	Lower River Suir SAC	7731.88	<p><b>Habitats</b></p> <p>1330 Atlantic salt meadows (Glauco-Puccinellietalia maritima)</p> <p>1410 Mediterranean salt meadows (Juncetalia maritimi)</p> <p>3260 Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation</p> <p>6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels</p> <p>91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>91E0 Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)*</p> <p>91J0 Taxus baccata woods of the British Isles*</p> <p><b>Species</b></p> <p>1092 White-clawed Crayfish (<i>Austropotamobius pallipes</i>)</p> <p>1029 Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>)</p> <p>1099 River Lamprey (<i>Lampetra fluviatilis</i>)</p> <p>1096 Brook Lamprey (<i>Lampetra planeri</i>)</p> <p>1355 Otter (<i>Lutra lutra</i>)</p> <p>1095 Sea Lamprey (<i>Petromyzon marinus</i>)</p> <p>1103 Twaite Shad (<i>Alosa fallax fallax</i>)</p> <p>1106 Salmon (<i>Salmo salar</i>)</p>
SAC	2324	Glendine Wood SAC	14067.67	<p><b>Species</b></p> <p>1421 Killarney Fern (<i>Trichomanes speciosum</i>)</p>
SPA	4193	Mid-Waterford Coast SPA	8317.99	<p><b>Birds</b></p> <p>A017 Cormorant (<i>Phalacrocorax carbo</i>)</p> <p>A346 Chough (<i>Pyrrhocorax pyrrhocorax</i>)</p> <p>A184 Herring Gull (<i>Larus argentatus</i>)</p> <p>A103 Peregrine (<i>Falco peregrinus</i>)</p>

## EIA Examination

The EU Directive (Directive 2011/92/EU as amended by Directive 2014//52/EU) sets out, in Annex 1 a list of projects for which EIA is mandatory. Annex 11 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 11). 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).

The proposal itself is of a small scale and involves the felling, thinning and clearfelling, and replanting of a mixed coniferous forest. Native species will be employed in the replanting which may provide some limited environmental benefits. While the forest is contained in an area that includes recreational facilities and is close to Kilmacthomas, the scale of the proposal is limited and the species to be replanted may offer some visual benefits. The proposal must adhere to standard felling conditions which will provide some benefit to the adjacent waterway. In addition to not being of a class covered by the Annexes of the EIA Directive, the proposal is not considered likely to result in a significant effect on the environment.

Vincent Upton on Behalf of the Forestry Appeals Committee

