



**An Coiste um Achomhairc
Foraoiseachta**

Forestry Appeals Committee

21 April 2020

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Our ref: FAC 238/2019

Subject: Appeal in relation to felling licence TFL00352919

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 TFL00352919.

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 TFL00352919 was granted by the Department on 22 October 2019.

Hearing

A hearing of appeal 238/19 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

Having regard to the evidence before it and the following considerations, the FAC has decided to confirm the decision of the Minister regarding licence TFL00352919.

The Licence was granted on 06 September 2019 subject to standard conditions requiring compliance with various standards and guidelines. The FAC considered that none of the conditions attached to the licence in this instance require measures which are designed to mitigate effects on a European site. The proposal is for clearfell and replanting of 2ha in one plot (687) on a site at Aghavas, Co Leitrim. Trees to be harvested are Sitka Spruce and replanting is to comprise 95% Sitka Spruce and 5% additional broadleaf trees.

There is a single appeal against the decision to grant the Licence. The grounds of appeal contend that, based on the information supplied, it was not possible to make a decision which would be in

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Kilminchy Court,
Portlaoise,
Co Laois
R32 DWT5

Eon/Telephone 076 106 4418
057 863 1900

compliance with the requirements of the Habitats and EIA directives, and having regard to the following judgements of the CJEU; Case C-258/11, Peter Sweetman and Others v An Bord Pleanala, Case C-164/17, Edel Grace and Peter Sweetman v An Bord Pleanala, Case C-323/17 People Over Wind and Peter Sweetman v Coillte Teoranta and Case C-461/17 Brian Holohan and Others v An Bord Pleanala.

In response to a request by the FAC for additional information, the Department side included that the proposed development on its own was determined to not be capable of giving rise to a significant effect or effects on the integrity of any Natura 2000 sites in view of those sites' conservation objectives, because of:

- The absence of any aquatic zone within or adjoining the project area
- Other factors i.e. distance; qualifying interests of SACs; qualifying interest of SPA

There are a number of forestry plantations and forestry related projects in the vicinity, this is a rural area and the wider area is a mixture of forestry and agricultural land use with a dispersed settlement pattern. Tributaries to the Ardery stream flow northwards and are c. 80m the west of the project site and c. 110m to east across a public road. The project site has no hydrological connectivity. The site has a moderate slope to the north.

The FAC undertook an appropriate assessment screening of this proposal. The FAC's considerations were based on the information provided with the appeal, by the Department of Agriculture Food and the Marine and information available in the public domain. The screening report is available on the public file.

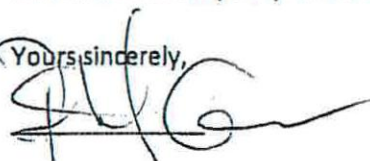
The project is not necessary for or connected with the management of any European site. The following European sites were examined for; Lough Oughter and Associated Loughs SAC at 11 km distance, Clooneen Bog SAC at 19.4 km distance, the Cuilcagh-Anierin Uplands SAC at 19.5 km and Lough Oughter Complex SPA at 13.1 km.

The FAC concludes that the proposed felling and replanting, of itself or in combination with any other plans or projects, is not likely to have any significant effect on any European site. In these circumstances the FAC found the carrying out of an Appropriate Assessment as referred to in Article 6(3) of the EU Habitats Directive is not required.

The FAC also examined with regards to the EIA Directive and considers that the proposed felling and replanting does not come within the classes of project covered by the EU EIA Directive. The FAC also considers that the proposed development would not be likely to give rise to significant effects on the environment of itself or cumulatively with other permitted projects.

In deciding to confirm the licence, the FAC considered that the proposed development is consistent with Government policy and Good Forestry practice.

Yours sincerely,



Pat Coman on behalf of the Forestry Appeals Committee

Appropriate Assessment Screening TFL00352919 (238/19) Aghavas Co Leitrim

The FAC undertook an appropriate assessment screening of this proposal and examined the proposal with regards to the EIA Directive. These considerations were based on the information provided with the appeal, by the Department of Agriculture Food and the Marine and information available in the public domain.

Project site comprises 2.0 ha of clearfell in one plot (687) cropped in sitka spruce, and replanting with 95% sitka and 5% ADB. No change of land use arises. This plantation is close to a number of rural dwellings and public roads. Site is flat and has no identified watercourse (epa), although watercourses exists west, north and east of the site with the closest at its east some 80m away.

European sites

The project is not necessary for or connected with the management of any Natura 2000 site. The following European sites were examined for as they are nearest the project site; Lough Oughter and Associated Loughs SAC at 11 km distance, Clooneen Bog SAC at 19.4 km distance, the Cuilcagh - Anierin Uplands SAC at 19.5 km and Lough Oughter Complex SPA at 13.1 km. The following sets out for each with qualifying interests;

Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
000007	Lough Oughter and Associated Loughs SAC	11028.96	Habitats Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation / Bog woodland Species Otter
002348	Clooneen Bog SAC	19457.88	Habitats Active raised bogs/ Degraded raised bogs still capable of natural regeneration / Depressions on peat substrates of the Rhynchosporion / Bog woodland
000584	Cuilcagh - Anierin Uplands SAC	19504.81	Habitats Oligotrophic waters containing very few minerals of sandy plains / Natural dystrophic lakes and ponds / Northern Atlantic wet heaths with Erica tetralix / European dry heaths/ Alpine and Boreal heaths/ Species-rich Nardus grasslands, on siliceous substrates in mountain areas / Blanket bogs / Transition mires and quaking bogs / Petrifying springs with tufa formation / Siliceous scree of the montane to snow levels / Siliceous rocky slopes with chasmophytic vegetation Species Slender Green Feather-moss

Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)
004049	Lough Oughter Complex SPA	13184.75	Birds Wigeon / Whooper Swan / Great Crested Grebe Habitats Wetlands

Tributaries to the Ardery stream flow northwards and are c. 80m the west of the project site and c. 110m to east across a public road. The project site has no hydrological connectivity. Project site is in conifer forestry, has no connectivity to any of these European sites and no species of interest (birds or wildlife) listed above for the sites would be affected in any way by the project for reason of the current cropping of mature trees, the unsuitability of the site to wetland species and the foraging ranges of the species listed. In addition the project site is in the Upper Shannon Catchment and Cloone (Lough Rinn) sub-catchment and Lough Oughter is within the Erne catchment. The habitat interests of the Natura sites, in the absence of connectivity, are at not posed any risk of an effect from the project and there is no likelihood of a significant effect.

The evidence available shows a number of planning projects in the surrounds. **1529** 2015 at St Joseph's Church, Aghavas, Co Leitrim - erect new stone front boundary walls & piers, **16139** 2016 at Aghavas Co Leitrim - house extension and upgrade existing sewerage treatment system and percolation area, **1617** 2016 at Agharann. Aghavas Co Leitrim - erect dormer type bungalow with an ICW system as on-site Wastewater Treatment System , **1654** 2016 Agharann, Aghavas Co Leitrim - erect 4 Bay Slatted Shed with underground storage tank. **1710** 2017 Carrickavoher, Aghavas, Co Leitrim - renovation of existing dwelling **17147** 2017 Corraneary Aghavas Co Leitrim - erect fully serviced single storey extension with effluent treatment system, **18212** 2018 Corraneary Aghavas Co. Leitrim - the construction of an astro turf playing pitch together with fencing & lighting, **19146** 2019 Agharann Aghavas Co. Leitrim - to erect two bay slatted shed with underground storage tank, **19216** 2019 Agharann Aghavas Co. Leitrim - erect new dwelling house with sewerage treatment system and percolation area. Each of these projects are of a general nature and are not exceptional to a rural area such as Aghavas and in combination with the project site will not create any effect which is likely to be significant on a European site.

In the surrounds of the townland containing the project (i.e. Aghavas, Carrickavoher, Corduff North) there are a number of forestry related projects concerning felling, forest roads and afforestation. The Department have provided other forestry projects from the DED, some of which are a considerable distance from the project screened and a number which date from 2013 up to 2017. Of those more recent (2018, 2019 & 2020) the following were particularly noted TFL00190118 is a 2019 licence to thin 18 ha within Aghavas; TFL00442219 is a 2020 to thin 5.6 ha at Carrickavoher. The other forestry related projects when considered in combination with the 2 ha of felling and replanting of the project being screened are not evidenced to create an in-combination effect for the project so as to give rise to any likely significant effect on a European site. Therefore, the FAC concludes that the proposed felling and replanting, of itself or in combination with any other plans or projects, is not likely to have any significant effect on any Natura 2000 site. In these circumstances the carrying out of an Appropriate Assessment as referred to in Article 6(3) of the EU Habitats Directive is not required.

Screening for Environmental Impact Assessment (EIA):

The project is sub-threshold in area for EIA, and comprises felling with replanting and no change of land use. The Irish 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. The FAC considers that the felling proposed does not come within the classes of project covered by the EU EIA Directive. The FAC also considers that the proposed development would not be likely to give rise to significant effects on the environment of itself or cumulatively with other permitted projects. I consider that the possibility of significant effects on the environment can be ruled out on the basis of this preliminary screening.

Pat Coman, on behalf of the FAC 20/04/2020

