



An Coiste um Achomhairc
Foraoiseachta

Forestry Appeals Committee

22 October 2020

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Our ref: 280/2020

Subject: Appeal in relation to afforestation licence CN85437

Dear [REDACTED]

I refer to your appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine in respect of licence CN85437.

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 CN85437 was granted by the Department on 26 May 2020.

Hearing

A hearing of appeal 280/2020 was conducted by the FAC on 02 October 2020.

FAC Members:

Mr Des Johnson (Chairperson), Mr Vincent Upton, Ms Bernadette Murphy and Mr Pat Coman

Decision

The Forestry Appeals Committee (FAC) having 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 a consultant's report, on 02 October 2020 the FAC decided to confirm the decision to issue licence CN85437 for the reasons set out below.

The proposal comprises 5.69 ha of afforestation at Esker South, Co Mayo with 580m of sheep stock fencing, and involves a change of land use from agriculture to forestry. The planting of plot 1 (5.6 ha) is with 85% Sitka Spruce and 15% additional broadleaves, and plot 2 (0.09 ha) is a biodiversity area. There are no aquatic zones marked on the application bio-map. However, the DAFM Inspector's certification requires the additional broadleaves are planted along watercourse and Geohive confirms a watercourse crossing the southern part of the proposal site and all the way up the

An Coiste um Achomhairc
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western boundary linking through drains to the point where the Drummin-North River rises c.185m to west of the proposal boundary and flows north, and the proposal is in the Corrib Catchment and Robe Sub-Catchment. The area is rural with some areas of forestry but is predominantly farmland, and Ballindine Village is c.1.5km. The available information shows the site comprises a Gley type soil and current cropping is grass / grass-rush. Planting is by mounding – slit method – 250kg rock phosphate.

There are additional conditions attached to the licence to (1) adhere to Environmental Requirements for Afforestation, and (2) all guidelines to apply. The FAC is satisfied none of the conditions attached are in place for the purposes of mitigation in respect of any European site.

There is one appeal before the committee and the grounds contend the decision does not comply with the Habitats Directive, the Birds Directive and the Environmental Impact Assessment Directive, and that the test for Appropriate Assessment Screening in Irish and EU law is: *it is, merely necessary to determine that there may be such an effect*. Rather than to state that it will not have a significant effect. The grounds also contend that if the development which is within 15 km of a Natura 2000 site it has to be screened in. The appellants referred to the following judgement; Case C-323/17 and that it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that (European) site and that a full and precise analysis of the measures capable of avoiding or reducing any significant effects on the site concerned must be carried out not at the screening stage, but specifically at the stage of the appropriate assessment. The appellants also contends that the assessment carried out under Article 6(3) of the Habitats Directive may not have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the proposed works on the protected site concerned. The appellant stated that if it is said to be in a different catchment, the screening must state the catchment that the application is in, and it is also necessary to realise that Birds can fly and they do not all rely on watercourses to move. The appellant stated a map showing the SACs and SPAS and the site of the proposed development should be attached and in screening it is necessary to give details of all forestry in the area and show that the cumulative afforestation does not exceed 50ha and to give the total km of the forest roads in the area and show that no roads which are not included in the application will be needed to carry out this development, that includes thinning and clear-fell. The appellant contends it is the duty of the FAC to carry out both a full Appropriate Assessment Screening and a full Environmental Impact Assessment Screening in accordance with the law and refers to an opinion of Advocate General Kokott in Case C-254/19 interprets these requirements.

In response to the appeal DAFM stated that approval was issued in accordance with all procedures and SOP's effective at the time of issue. The project was screened out using the Annex I Habitat table (18 December 2019) and the Bird Foraging Table (06 January 2020) and the Annex II Species Table (30 January 2020). The screening information is on file.

On the basis of the information and evidence before it, the FAC is satisfied the project is not necessary for or connected with the management of any Natura 2000 site and that none of the conditions of the licence in this instance are in mitigation of any effects on a European site. There are a number of European sites within a 15km radius of the site; Carrokeel Turlough SAC (000475) at



**An Coiste um Achromhairc
Foraoiseachta**

Forestry Appeals Committee

C. 4.9 km, Lough Corrib SAC (00297) at 5.8 km to the east (the Dalgan River section), Kilglassan/Caheravoostia Turlough Complex SAC (000504) at c. 8.3 km, Greaghans Turlough SAC (000503) at c. 8.4 km, Ardkill Turlough SAC (000461) at c. 9.8 km, River Moy SAC (002298) at c. 11.3 km, Skealaghan Turlough SAC (000541) at c. 11.9 km, and Ciyard Kettle-holes SAC (000480) at 14 km. The FAC notes there is a downstream connection via the Drummin-North River to Lough Carra / Lough Mask SAC (001774) which is c. 40.4 km.

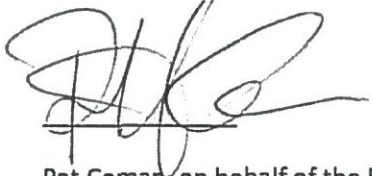
The FAC sought and received a report by an independent consultant in relation to this proposal and, in particular, a Stage 1 screening for Appropriate Assessment in accordance with the provisions of Article 6(3) of the Habitats Directive (92/43/EEC). The report, dated 29 September 2020, was considered by the FAC in coming to its decision and a copy of the report is contained in the public file. The report identifies the Natura 2000 sites located, at least in part, within 15 kilometres of the project lands, along with their qualifying interests and conservation objectives. The report confirms that the normal good afforestation practices referred to in the documentation and in the licence in were not considered in forming the conclusions. In addition the report confirmed that the proposal is clearly not necessary to or connected with the management of any Natura 2000 site, and concluded that the proposed afforestation, 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. The FAC is satisfied that the screening procedure detailed in the consultant's report is in accordance with the requirements of the Habitats Directive and adopts the report and its conclusions.

In addition, the report included a preliminary examination for EIA. The EU Directive 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 1. Annex 11 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 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 proposal is substantially sub-threshold. The report sought and received by the FAC from the independent consultant included that the proposal area is not particularly sensitive from a landscape or cultural heritage perspective, the area to be planted is significantly less than the 50-hectare area for which Environmental Impact Assessment would be mandatory according to the Irish regulations, and considered the effects of subsequent thinning and clear-felling and was conscious that some forest road construction may also be required to facilitate the forestry operations, although the lands have frontage onto the public road. The report concluded 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, and the

possibility of significant effects on the environment can be ruled out on the basis of this preliminary examination. The FAC adopts the report and the conclusion reached therein.

The FAC concludes that the proposal is in line with Government policy and good forestry practice.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Pat Coman', written over a horizontal line.

Pat Coman, on behalf of the Forestry Appeals Committee

FAC Case Ref. 280/2020

DAFM Case Ref CN 85437

Details of application:

The application is for the afforestation of an area of 5.71 hectares in the townland of Esker South in south County Mayo. The relevant Bio map is that submitted in response to a request for further information dated 27 March 2020. The request required that the hedge rows to be retained and a water course referred to should be indicated on the plan. The revised plan indicates a total Bio area of 0.66 hectares which includes internal and external hedgerows, a 10-metre strip along the stream (which is indicated along part of the eastern boundary of the lands) and an area of 0.09 hectares in the vicinity of an existing house at the roadside frontage of the lands (indicated as plot 2). The documentation indicates that 4.78 hectares of plot 1 would be planted with Sitka spruce and 0.84 hectares with additional broadleaved variety.

The fencing map submitted indicates 580 metres of stock/sheep fencing mainly to the northern or rear part of the lands. A short section of such fencing is also indicated at the southern end of the lands to the rear of house curtilage at the road frontage.

It is stated in the documentation that planting would involve mounding and that drainage is not required. Some fertiliser and herbicide applications are also indicated

Location and description of project lands:

The lands are located in a rural area in south County Mayo a short distance to the north of the boundary with County Galway. The lands are located on the west side of the N17 (Galway to Sligo National road) a short distance to the west of the village of the village of Ballindine which is located between Tuam and Claremorris. The lands have frontage onto local road number L1510. The lands are about 1.4 kilometres west of the N17 which runs through the centre of the village.

Agriculture is the predominant land use in the vicinity of the project lands. The bulk of the lands are used as grassland for animals and for silage/hay. There are also several houses fronting onto the local roads in the vicinity. There is a group of houses fronting onto a local road to the east and there are several houses and a housing scheme on local road L1510 on the west side of the N17 through Ballindine. There is an older house in the lands immediately to the west, near the public road frontage of the project lands.

The project lands are located at and slightly above the 200-foot contour as indicated on the older O.S. maps. These maps also indicate a number of drains or small streams in the area. These include that indicated on the revised Bio map and a drain through the project lands a short distance back from the public road. The drains/streams flow towards the south west along the north side of the road and turn towards the north some distance away to the southwest. The stream draining the area flows northwards towards the Robe River which flows through Crossboyne,

Hollymount and Ballinrobe before flowing into Lough Mask to the west of Ballinrobe. The river follows an extremely circuitous route from Crossboyne to Lough Mask.

The Department's inspector's screening indicates a gley type soil predominating in the area. The flora of the area, where there is a considerable amount of rushes and evidence of impeded drainage, supports this. The bulk of the lands are indicated as being rough grazing on the older O.S. maps. (The soil type and impeded drainage would have prevented or mitigated against cultivation and improvement of the grassland in earlier times).

There is some forestry in the general area but agriculture predominates. The nearest block of forestry is on the west side of the N17 south of Ballindine a short distance north of the Co. Galway border. There is also a reasonably large block of forestry located about 1 kilometre to the north to the southeast of the village of Crossboyne.

DAFM Decision:

The Department decided to approve the project and to grant a licence. The licence was subject to 13 conditions. The conditions are all of a standard variety typical of Departmental conditions for such projects. A number of the conditions refer to the grant scheme for projects such as that in question. The conditions also require compliance with standard Forest Service requirements and guidelines for such works. None of the conditions are specifically designed or related to the mitigation or reduction of impacts or effects on any Natura 2000 sites.

Grounds of appeal:

It is submitted that the decision does not comply with the Habitats Directive, the Birds Directive and the Environmental Impact Assessment Directive. The appellant submits that the test for Appropriate Assessment Screening in Irish and EU law is that it is merely necessary to determine that there may be such an effect, rather than to state that it will not have a significant effect. If the development is within 15km of a Natura 2000 site it has to be screened in.

Case C-323/17 of the EU Court of Justice determined that Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site. The court also states in the Judgement that this conclusion is supported by the fact that a full and precise analysis of the measures capable of avoiding or reducing any significant effects on the site concerned must be carried out not at the screening stage, but specifically at the stage of the appropriate assessment.

That judgement also states that the Court's case-law emphasises the fact that the assessment carried out under Article 6(3) of the Habitats Directive may not have any lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the proposed

works on the protected site concerned. i.e. If it is said to be in a different catchment, the screening must state the catchment that the application is in.

The appellant also states that it is necessary to realise that Birds can FLY and that they do not all rely on watercourses to move. A map showing the SACs and SPAs and the site of the proposed development should be attached.

In relation to screening for Environmental Impact Assessment the appellant submits that it is necessary to give details of all forestry in the area and show that the cumulative afforestation does not exceed 50ha. It is necessary to give the total length of the forest roads in the area and show that no roads which are not included in the application will be needed to carry out the development, which includes thinning and clear-felling. It is the duty of the FAC to carry out both a full Appropriate Assessment Screening and a full Environmental Impact Assessment Screening in accordance with the law. He quotes from the opinion of advocate general Kokott in Case C-254/19 to support this argument.

In his submission to the Department the appellant stated that the possibility of an effect on a Natura 2000 site generates the need for an Appropriate Assessment. He included a quotation from the opinion of Advocate General Sharpston in EU case reference C-256/11 to support this contention. He also submitted that in an area with turloughs it is necessary to show that there is no groundwater connectivity with the development lands.

DAFM response to appeal:

The Department submits that impact on 8 Natura sites has been screened out for the purposes of Appropriate Assessment. It is submitted that there is no possibility of a significant effect on any Natura site. The project itself (i.e. individually) will not have a significant effect on any European site. Appropriate Assessment not required. The project will not adversely affect the integrity of any European site. It is submitted that the project had been screened out using the standard operating procedures applicable to the Department at the time of screening. Reference is made to the screening carried out by the Department.

The Department has also submitted its in-combination impact assessment which refers to projects taken into account in its assessment. It is concluded in this assessment that the project does not represent a source or if so, no pathway exists for an effect on any of the Natura sites considered. The Department deems that there is no potential for the project to contribute to any effect when considered in combination with other plans or projects. It is also submitted that the regulatory system in place for the approval, operation and monitoring of the effects of other plans and projects are such as to ensure that they will not cause environmental pollution or give rise to direct or indirect effects on the integrity of any Natura site in view of the sites conservation objectives. The Department accordingly deems that the project when considered in combination with other plans and projects will not give rise to the possibility of an effect on the Natura sites considered.

Appropriate Assessment screening:

There are 8 Natura 2000 sites within 15 kilometres of the project lands. These are Ardkill Turlough SAC (000461) located approximately 10 kilometres to the southwest of the project lands. (Inspector's distance 9.7 kilometres)

Carrowkeel Turlough SAC (000475) located approximately 5.05 kilometres to the west of the project lands. (Inspector's distance 10.6 kilometres)

Clyard Kettle-Holes SAC (000480) located approximately 14.4 kilometres to the southwest of the project lands. (Inspector's distance 14 kilometres)

Greaghans Turlough SAC (000503) located approximately 8.8 kilometres to the southwest of the project lands. (Inspector's distance 8 kilometres)

Kilglassan/Caheravoostia Turlough Complex SAC (000504) located approximately 8.5 kilometres to the southwest of the project lands. (Inspector's distance 8 kilometres)

Skealoghan Turlough SAC (000541) located approximately 12.1 kilometres to the southwest of the project lands. (Inspector's distance 12 kilometres)

Lough Corrib SAC (000297) located, at the closest point, approximately 6.4 kilometres to the east of the project lands. (Inspectors distance 9.5 kilometres)

River Moy SAC (002298) located, at the nearest point, approximately 11.3 kilometres to the north of the project lands. (Inspector's distance 11 kilometres)

My measurements and those of the inspector are generally relatively consistent except in the case of Carrowkeel Turlough SAC and the Lough Corrib SAC. My measurement for the Lough Corrib SAC is to a location on a stream south of Irishtown, northwest of Dunmore, on a tributary which flows to the Clare River which runs close to Tuam. This location is a considerable distance from Lough Corrib and there is no hydrological connection from the project lands to this sub-catchment.

The 5 turlough SACs and the Clyard Kettle-Holes SAC are all located to the west and southwest of the project lands at distances of from about 5 to over 14 kilometres from the project lands. Carrowkeel Turlough is located east of Hollymount. The other 4 turloughs are located south of Hollymount and north of Kilmaine, The Clyard Kettle-Holes SAC is to the west of Kilmaine. There are similarities in the locations, qualifying interests and conservation objectives. I will accordingly deal with these 6 sites together.

The qualifying interests of the 5 turloughs are "Turloughs. The conservation objectives are "To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:". The qualifying interests for the Clyard Kettle-Holes SAC are "Turloughs [3180]" and "Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* [7210]". The conservation objectives are similar to those for the turloughs.

The Geological Survey of Ireland in its categorisation of ground water vulnerability indicates the vulnerability at the location of the project lands as low (EPA mapping inventory). This fits with the soil characteristics and the vegetation as referred to above. There is good protection due to the depth and nature of the soil and sub-soil above the bed-rock. The indications are also the water falling on the project lands discharges generally to surface waters rather than to ground water. The lands are on a slight ridge seemingly of glaciation origin hence the name of the townland (Esker South). The material in the ridge acts as a barrier to infiltration to bed-rock. In addition to this there are a number of streams flowing northwards to the Robe River between the project lands and the turloughs. These streams would also intercept water flowing towards the west and southwest.

In addition to the circumstances set out in the previous paragraph, the project proposed in the current application involves relatively minor works which would take place in the top-soil and sub-soil. The development would not involve excavations into the bedrock. There would accordingly not be any danger of altering or modifying any conduits or openings which may exist in the bed-rock beneath the sub-soil.

In the circumstances as set out above and having regard to the nature of the works involved and to the distance to the 6 sites referred to, I consider that the project would not alter the ground water regime at any of the turlough sites. The project would not also have any impact on surface water at the sites as there is no hydrological connection from the lands to the sites. The project would not, accordingly, be likely to have any significant effect on any of the turlough SACs or on the Ciyard Kettle-Holes SAC having regard to the conservation objectives of these Natura sites.

The Lough Corrib SAC is located at the closest point about 6.4 kilometres to the east of the project lands. The project lands however drain northwards to the Robe River which flows to Lough Mask and there is no hydrological link from the lands to the Lough Corrib SAC except through Lough Mask and ultimately to Lough Corrib. The Lough Corrib SAC in this direction is at a minimum distance of about 21.6 kilometres from the project lands (direct distance). The distance along the hydrological pathway is considerably greater.

The qualifying interests of the Lough Corrib SAC are

Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) [3110]

Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or *Isoetes-Nanojuncetea* [3130]

Hard oligo-mesotrophic waters with benthic vegetation of *Chara* spp. [3140]

Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachium* vegetation [3260]

Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*) (* important orchid sites) [6210]

Molinia meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]

Active raised bogs [7110]

Degraded raised bogs still capable of natural regeneration [7120]
 Depressions on peat substrates of the Rhynchosporion [7150]
 Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* [7210]
 Petrifying springs with tufa formation (Cratoneurion) [7220]
 Alkaline fens [7230]
 Limestone pavements [8240]
 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
 Bog woodland [91D0]
Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]
Austropotamobius pallipes (White-clawed Crayfish) [1092]
Petromyzon marinus (Sea Lamprey) [1095]
Lampetra planeri (Brook Lamprey) [1096]
Salmo salar (Salmon) [1106]
Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]
Lutra lutra (Otter) [1355]
Najas flexilis (Slender Naiad) [1833]
Hamatocaulis vernicosus (Slender Green Feather-moss) [6216]

The conservation objectives are generally to maintain or restore the favourable conservation condition of the habitats and species for which the site has been selected. The conservation objective for the Freshwater Pearl Mussel relates to restoring the favourable conservation condition in the Owenriff River which is on the west or opposite side of the lake from the project lands. There is no hydrological downstream connection from the project lands to this sub-catchment.

Having regard to the small scale of the project, the distance of the project lands from the SAC and to the conservation objectives I consider that the development involved is not likely to have any significant effect on the Lough Corrib SAC.

The River Moy SAC is located over 11 kilometres to the north of the project lands which are in the Corrib catchment. There is no hydrological connection from the lands to the SAC.

The qualifying interests of the River Moy SAC are

Active raised bogs [7110]
 Degraded raised bogs still capable of natural regeneration [7120]
 Depressions on peat substrates of the Rhynchosporion [7150]
 Alkaline fens [7230]
 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
 Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, *Alnion incanae*, *Salicion albae*) [91E0]

Austropotamobius pallipes (White-clawed Crayfish) [1092]

Petromyzon marinus (Sea Lamprey) [1095]

Lampetra planeri (Brook Lamprey) [1096]

Salmo salar (Salmon) [1106]

Lutra lutra (Otter) [1355]

The conservation objectives for the River Moy SAC are generally to maintain or restore the favourable conservation condition of the habitats and species for which the site has been selected.

Having regard to the absence of any hydrological or other impacting pathway from the project lands to the River Moy SAC, to the qualifying interests and conservation objectives and to the distance involved, I consider that the proposed development would not be likely to have any significant effect on the Lough Corrib SAC.

None of the SACs within 15 kilometres of the project lands have birds as qualifying interests. The appellants comment on birds' ability to fly accordingly is not relevant to considering any significant effects on the conservation objectives of the 8 SACs referred to. The nearest SPAs to the project lands are the Lough Carra SPA, Lough Mask SPA and the Lough Corrib SPA. The Lough Carra SPA is at a minimum distance of about 15.5 kilometres. Lough Mask SPA is at a minimum distance of about 20 kilometres and the Lough Corrib SPA is located at a minimum distance of about 22.8 kilometres from the lands.

The qualifying or special interests of Lough Carra SPA are

Common Gull (*Larus canus*) [A182].

The qualifying or special interests of the Lough Mask SPA are

Tufted Duck (*Aythya fuligula*) [A061]

Black-headed Gull (*Chroicocephalus ridibundus*) [A179]

Common Gull (*Larus canus*) [A182]

Lesser Black-backed Gull (*Larus fuscus*) [A183]

Common Tern (*Sterna hirundo*) [A193]

Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]

Wetland and Waterbirds [A999]

The qualifying or special interests of the Lough Corrib SPA are

Gadwall (*Anas strepera*) [A051]

Shoveler (*Anas clypeata*) [A056]

Pochard (*Aythya ferina*) [A059]

Tufted Duck (*Aythya fuligula*) [A061]

Common Scoter (*Melanitta nigra*) [A065]

Hen Harrier (*Circus cyaneus*) [A082]

Coot (*Fulica atra*) [A125]

Golden Plover (*Pluvialis apricaria*) [A140]

Black-headed Gull (*Chroicocephalus ridibundus*) [A179]

Common Gull (*Larus canus*) [A182]

Common Tern (*Sterna hirundo*) [A193]

Arctic Tern (*Sterna paradisaea*) [A194]

Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]

Wetland and Waterbirds [A999]

The conservation interests in all cases are to maintain or restore the favourable conservation condition of the bird species for which the sites have been designated.

The project lands are not unique or especially suitable to any of the species listed. There is an abundance of similar lands in the wider area and there is a significant amount of similar land closer to the SPAs referred to. The lands are well outside the normal foraging areas of the species for which the sites have been designated. The loss of the existing habitats on the project lands would have no impact on the conservation objectives for the SPAs in question.

Having regard to the small scale of the project and to the distance from the 3 SPAs referred to I consider that the proposed development would not be likely to have any significant effect on the Lough Carra SPA, the Lough Mask SPA or the Lough Corrib SPA.

On checking myplan.ie I find that no planning permissions have been granted for development in the immediate vicinity since 2010. The Department in its in-combination assessment lists 57 planning permissions for new developments or retention permissions. The bulk of the permissions are for development in or near the village of Ballindine about 1 kilometre to the east. The nearest permission to the project lands was reference 15178 granted on 23/6/ 2015 for the retention and completion of a house on lands about 300 metres to the east. Planning permission was granted on 13/6/ 2016 for a house extension and a septic tank on lands about 460 metres from the project lands on a lane leading to the south. (16263) The next nearest permission is for the demolition of an existing house and construction of a new house and associated works on lands on the southside of the local road leading to Ballindine to the east (Case 19661). This development granted on 21/11/2019 would be about 680 metres from the lands. Permission was also granted for a house to the east of 19661 in 2017 (Ref 16626). None of these would have any in-combination effect, with the current forestry proposal, on the Natura 2000 sites in the area. I also consider that the development would not have any significant effect on Natura 2000 sites in combination with developments envisaged by the County Mayo development plan. This plan contains provisions to prevent developments which would adversely impact on Natura 2000 sites

I do not have details indicating the locations of other forestry related developments but as I consider that the development of itself would have no effect on any Natura site, I do not envisage any significant in-combination effects.

In the above assessment I have not considered the normal good afforestation practices referred to in the documentation and in the licence in forming my conclusions. I consider, however, that compliance with the various guidelines etc referred to, would re-enforce my conclusions. I also consider that the practices referred to are designed to protect the local environment, as they are general standards for all afforestation, and are not designed to prevent any significant effect on the Natura 2000 sites.

The proposal is clearly not necessary to or connected with the management of any Natura 2000 site. I conclude that the proposed afforestation, 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):

In my screening for EIA I have regard to the requirements contained in the EU Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU), in Irish regulations transposing the Directive into Irish law and to the Guidance for Consent Authorities regarding Sub-threshold Development published by the Department of the Environment in August 2003. I have had regard to the characteristics of the project, the location of the project (including the environmental sensitivity of the area) and the types and characteristics of potential impacts of the development as referred to in Annex 11 of the Directive. I have also taken account of my conclusions, set out above, in relation to the likely impact of the development on any Natura 2000 site.

The EU Directive 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 1. Annex 11 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 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 site is located in a rural area where the predominant land uses is agriculture but with some pockets of forestry in the wider area. The area is not of any special or significant scenic amenity value. The area is not designated as an area of outstanding natural beauty or high visual amenity in the current Co. Mayo development plan. Whilst the trees to be planted would be visible from the local road onto which the lands have frontage and they would also be visible from other local roads and house curtilages I do not consider that the plantation proposed would have a significant impact on the wider landscape.

The afforestation proposed and subsequent thinning and clear-felling will give rise to some vehicular traffic and, in a later phase, the transport of timber on the local roads. This will cause some inconvenience in the short term but it would not of itself result in such likely significant effects on the environment as to require compliance with the full Environmental Impact Assessment process. I also consider that the afforestation proposed, in compliance with the standard conditions referred to, would not be likely to give rise to significant effects on the environment due to water or air pollution, including any emissions which might have significant effect on climate change.

There are no National Monuments located within the project lands. The nearest such monument is a ringfort located about 470 metres to the east on the opposite side of a local road leading northwards towards Crossboyne. The next nearest monument is an enclosure about 520 metres away to the west. There is another ringfort about 640 metres to the east on the south side of local road L1510 leading towards Ballindine. The proposed afforestation and subsequent thinning and clear-felling would have no effect on the monuments in question.

The area is not particularly sensitive from a landscape or cultural heritage perspective. The area to be planted is significantly less than the 50-hectare area for which Environmental Impact Assessment would be mandatory according to the Irish regulations. In carrying out this screening I have considered the effects of subsequent thinning and clear-felling and am conscious that some forest road construction may also be required to facilitate the forestry operations, although the lands have frontage onto the public road. I consider 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.

Overall conclusion:

I conclude that the proposed project would not be likely to have significant effects on the environment and the carrying out of EIA is not required. I also conclude that the project individually, or in combination with other plans or projects, is not likely to have any significant effect on any Natura 2000 site, having regard to the reasons for designating the sites and their conservation objectives.

Padraic Thornton

29/9/ 2020