



**An Coiste um Achomhairc
Foraoiseachta**

Forestry Appeals Committee

23 October 2020

[REDACTED]
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[REDACTED]

Our ref: FAC 451/2019

Subject: Appeal in relation to felling licence TFL00330419

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 felling licence TFL00330419.

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 TFL00330419 was granted by the Department on 09 December 2019.

Hearing

A hearing of appeal 451/19 was conducted by the FAC on 07 October 2020.

FAC Members:

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

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 affirm the decision in respect of this licence.

The proposal is for 2nd and 3rd thinning, in 2019 and 2023, of a stated 9.4 ha on 2 plots (Plot 1 - 3.4ha of Norway Spruce and Plot 2 - 6.0ha of Sycamore) at Garr, Co. Offaly. A small plantation adjoins to the West. Bog and scrubland adjoin further to the West. A property with buildings adjoins to the East. The Knockdrin River is adjacent to the proposal to the North and flows East. An unnamed stream rises to the South outside the proposal and flows South. Both the aforementioned join the Yellow/ Castlejordan River which flows East to join the Boyne River. There is evidence of drainage flowing out of the proposal into both watercourses. The project is not adjacent to the public road.

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DAFM issued a licence on 09 December 2019 subject to standard conditions. The FAC does not consider that any of the conditions are for the purposes of mitigation of any effects on a European site.

There is one appeal against the decision. The grounds relate to the Appropriate Assessment screening undertaken by the DAFM and suggest that an Appropriate Assessment should have been undertaken. It suggests that the Forest Service identified that there were Natura 2000 sites within 15km and that the inspector did not show evidence on which responses that they provided in the screening were based and that, in this case, an Appropriate Assessment was legally required.

The DAFM responded to the grounds of appeal stating that all relevant information was checked for this proposal. DAFM described the nature of the thinning to be carried out. The Inspector referred to the large amount of information available on this plantation and his experience regarding the plantation over 20 years. He explained that additional field inspections were carried out. The soil type is described as mineralized peat, powdery in nature, which would be blown away if not covered. Details regarding the difficulties experienced by the plantation arising from dehydration and how this arose are given. DAFM state that no artificial drainage of any kind is required because of the natural percolation of the peat mixture and that no watercourse is required to control surface water, as no surface water exists. DAFM specify that no water catchment can be associated with this plantation and that no significant effect is likely or expected on any Natura sites.

In processing the application DAFM undertook a Stage 1 screening assessment in relation to the provisions of the Habitats Directive. Six Natura 2000 sites were identified along with their qualifying interests, and each was assessed to determine if the proposed development alone, or in-combination would give rise to the likelihood of significant effects. The sites identified were *Raheenmore Bog SAC*, *Mount Hevey Bog SAC*, *Lough Ennell SAC*, *Split Hills and Long Hill Esker SAC*, *The Long Derries*, *Edenderry SAC* and *Lough Ennell SPA*. DAFM concluded that there is no likelihood of significant effects on any of the sites by reason of the projects location downstream of the designated sites and the subsequent lack of any hydrological connection. The FAC considered that it had adequate information in respect of the characteristics of the proposal, the location, and types and characteristics of potential impacts in order to determine if the proposed development, alone or cumulatively with other plans and projects, would be likely to have significant effects on the environment. The procedures adopted by the DAFM in their assessment are considered acceptable. The FAC concurs with the conclusion that there is no likelihood of significant effects on any Natura 2000 site arising from the proposed forest thinning. Having regard to the nature and scale of the proposal, the characteristics of the surrounding area and other plans and projects, including forestry projects listed by DAFM (Afforestation - 2, Felling - 2, Coillte Felling - 4 & Forest Roads - 2), the FAC concludes that there is no likelihood of significant effects on any Natura 2000 site arising from the proposed development in-combination with other plans and projects.

The DAFM did not consider there was any reason to examine sites outside of 15km in this case. The FAC noted that the *River Boyne and River Blackwater SAC (002299)* and *River Boyne and River Blackwater SPA (004232)* lies c16.1km to the East of the proposal and has a down stream distance of



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c24km. The FAC concluded that the hydrological connection at this distance of c24km and the nature of the proposal, being a thinning without the clearance of land, removes any likelihood of significant effects on these sites. In addition the unsuitability of the proposal site as habitat for species listed as *Qualifying Interests* (1106 Salmon (*Salmo salar*), 1355 Otter (*Lutra lutra*), 1099 River Lamprey (*Lampetra fluviatilis*) & A229 Kingfisher (*Alcedo atthis*)) and the degree of separation preclude any form of significant effect. This concurs with the decision of the DAFM.

The FAC also examined the proposal with regards to the EU EIA Directive and considers that the proposed thinning does not come within the classes of project covered by that Directive or by the Forestry Regulations 2017. FAC considered the impact of the proposal on the environment, including on *Black Castle Bog NHA (00570)* located c5km from the project. The FAC concluded that the proposal will not impact the NHA site due to the absence of hydrological connectivity, the degree of separation and the nature of the species and habitats concerned. The FAC noted a number of conditions related to the protection of biodiversity and water quality on the licence. The FAC does not consider that the proposal would result in any real likelihood of a significant effect on the environment given the nature, small scale of the proposal and the characteristics of the surrounding area.

In deciding to affirm the licence decision, on the balance of evidence, the FAC is satisfied that there was no serious or significant error or series of errors made in making the decision or that the decision was made without complying with fair procedures. The FAC concluded that the proposed development would be consistent with Government policy and Good Forestry Practice.

Yours sincerely,

Bernadette Murphy on behalf of the Forestry Appeals Committee

