



**An Coiste um Achomhairc
Foraoiseachta**

Forestry Appeals Committee

11 September 2020

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

Our ref: FAC 177/2020

Subject: Appeal in relation to forest road licence CN85336

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 CN85336.

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

Forest Road licence CN85336 was granted by the Department on 25 March 2020.

Hearing

A hearing of appeal 177/2020 was conducted by the FAC on 09 September 2020.

FAC Members:

Mr Des Johnson (Chairperson), Mr Vincent Upton, Ms Bernadette Murphy 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 preliminary examination in the context of the EIA Directive before deciding to confirm the decision to grant the Licence (CN 85336).

Proposal is for 300m of Forest Road (2 separate sections) serving two separate blocks of forestry stated to be 15.23ha and to be harvested in 2020. The two blocks of forestry to be served are on the opposite end and opposite sides of a minor public road and approximately 600m apart. The northern block fronts the public road and is bounded by a stream to the north-east, and this flows south initially before branching east to meet the Rosmeen River. The southern forestry block (in 3 plots) fronts the public road and is bounded by a stream along its eastern boundary. There are two dwellings adjacent to this block to the north and the existing forestry is to the south and east of these properties. The proposed forest road is shown on the outside of a bend in the public road. There are a couple of

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agricultural entrances/gates on the opposite side of the public road along this stretch. The wider area is rural and agricultural in character with a dispersed settlement pattern. Ballintubber is approximately 1200m to the east of the southern forestry block.

Application details state that planning permission was granted for access on to the public road under Reference PD/19/590, and examination of the planning website indicates that this consent is dated 17th January 2020. The planning permission contains a condition requiring agreement to a Traffic Management Plan. Sediment traps are proposed to prevent water flowing on to the public road.

The application was referred to Roscommon County Council and the response refers to water quality requirements

The Licence was issued on 25th March 2020 and is subject to standard conditions plus a condition restricting construction works to 0900-1800 Monday to Friday only.

There is a single appeal against the decision to grant the licence. This is submitted by a local resident and the grounds argue that the proposed entrance is on a highly dangerous bend, that there are more suitable alternatives for access and that the proposal would cause distress to the appellant's family and the proposed development would give rise to unacceptable noise and disruption. The appellant submitted a drawing showing alternative access arrangements from an adjoining public road away from occupied housing.

In processing the application DAFM undertook a Stage 1 screening assessment in accordance with the provisions of the Habitats Directive. Fourteen 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 DAFM concluded that there is no likelihood of significant effects for reasons of location of the project downstream of designated sites and the absence of connectivity, the unsuitability of the project areas (mature forests) for any of the qualifying interests for which the Natura 2000 sites are designated and separation distance. 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 road. Having regard to the nature and scale of the proposal, the characteristics of the surrounding area and other forestry projects listed by DAFM (afforestation (6), Felling (1), Coillte felling (3)), 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 projects or land uses in the area.

The FAC considered that the key issues to be determined in this appeal are as set out in the grounds of appeal. In regard to the proposed road serving the northern forest block, the FAC concluded that this is acceptable and does not raise any traffic safety or amenity concerns. The proposed road serving the southern forestry block is on the outside of a bend on a narrow minor road. It is located approximately 55 metres from the boundary of the nearest residential property. The FAC noted that planning permission was granted by Roscommon County Council on 17th January 2020 for access at this location and there is no record of any appeal against this decision. Furthermore, the County Council, in its submission to DAFM did not raise any traffic safety issues. Having regard to the location of the proposed forest road on the outside of a bend on a minor public road, the scale of the forestry it is proposed to serve and to the extant planning permission, the FAC concluded that the proposed



forest road at this location is acceptable. The FAC considers the construction phase of the road would be relatively brief and any potential noise or disturbance from that phase would be short-term. The FAC noted that the extant planning permission contains a condition requiring the submission of a Traffic Management Plan and the Licence contains a condition restricting construction works to between 0900-1800 Monday to Friday only. The FAC concluded that the Licence condition is reasonable in order to limit noise and disturbance at nearby residential property and that, subject to this restriction, the proposed development would not have undue adverse impact on residential property.

The FAC noted the appellant's proposal for an alternative access but consider that this is not open for consideration in this appeal as it does not form part of the proposal to which the Licence under appeal relates.

The FAC undertook a preliminary examination of the proposal in the context of the EIA Directive. Annex II of the Directive 2011/92/EU, as amended by 2014/52/EU, lists classes of development for which Member States may set thresholds or criteria for requiring EIA. This includes initial afforestation or deforestation for the purpose of conversion to another type of land use and road construction. This is transposed into Irish Regulations (Irish Forestry Regulations 2017) as afforestation involving an area of more than 50ha. or forest road construction of greater than 2000 metres. The Regulations also provide for the Minister to consider if sub-threshold developments are likely to have significant effects on the environment and, as such, require EIA. The proposed development is significantly sub-threshold for mandatory EIA.

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 projects and land uses, would be likely to have significant effects on the environment.

The FAC noted that this is a rural agricultural area with dispersed settlement pattern. The proposed road (in 3 separate sections) would serve two areas of mature forest, approximately 600m apart. The proposal does not represent single or multiple lengths of forest road totalling 2000m and does not combine with other forestry roads as part of a project equalling or exceeding 2000m in length. The proposal would give rise to short-term and intermittent noise and disturbance in the surrounding area, including residential properties, but this would be mitigated by restricted operating hours as conditioned on the Licence and would not be significant. There would be short-term traffic increase on a minor public road, but this would not be significant. There would be no significant effects on biodiversity or on water quality, although small scale localised short-term effects may occur. Designated sites would not be significantly impacted, and visual impact would be minimal. No archaeological sites would be impacted and there would be no significant impact on public health or on the population in general. Having regard to the nature and scale of the proposed development, and the characteristics of the surrounding area, the FAC concluded that the proposed development alone or cumulatively with other projects and land uses would not be likely to give rise to significant effects on the environment.

In deciding to confirm the licence decision, the FAC concluded that the proposed development would be consistent with Government policy and Good Forestry Practice.

Yours Sincerely

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

Pat Coman, on behalf of the FAC