



An Coiste um Achomhairc
Foraoiseachta

Forestry Appeals Committee

25 September 2020

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Our ref: FAC 046/2020

Subject: Appeal in relation to felling licence TFL00410119

[Redacted]
[Redacted]

Dear [Redacted]

I refer to your appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine (DAFM) in respect of felling licence TFL00410119.

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 TFL00410119 was granted by the Department on 16 December 2019.

Hearing

A hearing of appeal 046/20 was conducted by the FAC on 15 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, and all submissions/observations before deciding to confirm the decision in respect of licence TFL00343219.

The proposal is for the thinning of 24.14 ha of Sitka spruce (90%) and Japanese Larch (10%) at Derrynatuan, Glangevlin, Co. Cavan during 2020, 2024 and 2028. The proposal does not involve any replanting or change of land use. The proposal site is gentle sloped to west and to south, and the site's highest point is approx 100m in elevation. The proposal is in the Upper Shannon catchment and the Shannon Upper sub-catchment, is bounded on the east by the Upper Shannon River and on its north by the Black River a tributary, so has hydrological connections to the Shannon and to Lough

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Allen. There are some lakes closer to the proposal but none are shown to be hydrologically connected downstream. The proposal site is fronted by the R206 along section 2 of the Cavan Way, which is a National trail referred to as Shannon-Pot to Dowra. The proposal is in a rural area with dispersed settlements and even though there is mostly farmland adjacent to the proposal forestry is a common feature in the wider area. The GSI website shows a sandstone bedrock which is homogenous, thick bedded and medium grained ortho-quartzitic brown coloured sandstone with minor amounts of shale.

The conditions attached to the licence are standard and include strict adhere to the Standards for Felling & Reforestation (October 2019). None of the conditions are considered mitigation measures in respect of any European site in this instance.

The grounds of appeal are summarised as follows;

This is a high scenic area located in the Geopark valley.

- The roads which service this area are not suitable for the lorries involved in extraction and will be damaged - has a suitable bond been lodged with Cavan co. council to cover costs involved with reinstatement/repair?
- The soil on which the trees are planted are vulnerable to run off and the subsequent compaction and disturbance will greatly facilitate pollution to the rivers including the River Shannon which forms a boundary to the property with sand and silt.
- The forest has become a haven for badgers and other wildlife that transmit TB to livestock. Have the wildlife been tested for TB incidence and will a culling or vaccination process be adopted beforehand.
- Given that thinning and felling licences have been granted in neighbouring plantations and subsequently it was found that endangered bird species were nesting in this forest has studies been carried out to prevent similar occurrences in Denynatuan?
- Given that the proposed thinning negatively impacts on the quality of life of neighbouring families Save West Cavan have no option but to object. We have allowed far too much afforestation to envelop our area with no consideration for the quality of life of the neighbouring families. The subsequent thinning and clear-felling have damaged our roads and left vast swades of our landscape desolate resulting in what can only be described as Armageddon. This is not sustainable.
- Given all of the above we the undersigned object to the thinning of this site at this time.

The DAFM responded to the grounds of appeal stating a desk review and field inspection were undertaken with regard to this application, and DAFM is satisfied that all assessment criteria were fully adhered to and the recommendation to approve is in order.

Prior to deciding this appeal, the FAC undertook a stage 1 screening for Appropriate Assessment in compliance with 6(3) of the Habitats Directive 92/43/EEC and with SI 477 of 2011, and this is available on the public file. Based on location and the wider evidence to hand the FAC considers the proposal is not connected with or necessary to the management of any Natura 2000 site.

The proposal is in the Upper Shannon catchment and the Shannon Upper sub-catchment and shares the catchment and the sub-catchment with part of the Cuilcagh Aneirin Uplands SAC, part of the Boleybrack Mountain SAC and a small section of the Cuilcagh Mountain SAC in Northern Ireland. However, the greater part of the Cuilcagh Mountain SAC and all of the Corratrim SAC is in the Erne catchment with no hydrological connectivity to the proposal. In addition, Lough Gill SAC is in the



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Sligo Bay and Lough Drowse catchment, is divided from the proposal by the Bolleybrack mountains and is also at some remove. Regards the European sites that are in part within the same Upper Shannon catchment and sub-catchment as outlined, all are upland sites at much higher elevations than the proposal site which has elevations of 80m to 100m and none are downstream of the proposal. Without any such downstream connection and at the distances set out above there is no likelihood of significant effects posed by the proposal to these European sites and their qualifying interest habitats or the slender green feather moss species.

The proposal is bounded on the east by the Upper Shannon River and a tributary, the Black River, along its north boundary, and therefore has hydrological connections to the Shannon and to Lough Allen. The nearest European sites with a downstream connection are the Lough Forbes Complex SAC and the Ballykenny-Fisherstown Bog SPA, these are at a hydrological distance of c. 70km and there are intervening lakes such as Lough Allen, Lough Corry, Tap Lough, Boderg Lough and Bofin Lough which in themselves would provide for the dilution of any sediments or outflows from the proposal were they to arise, there is no likelihood of significant effects on the European sites.

Cavan County Council planning shows no recent planning permissions in the direct area, there are some older permissions. DAFM certification states 74 ha of felling within a 500m radius of the proposal during the last 3 years, of which 24.14 ha being the proposal itself. Other forestry related, projects in the area include an application for 600m of forest road in Derrynataun, 423m of forest road and 21.54 ha of thinning and clear-fell in Cappanaghbane-Gowlat which is one townland removed to the south of the proposal. There is also 20.29 ha of thinning licensed in Carricknagrow to the north of the proposal. The proposal is separated by rivers and public roads from these other forestry thinning and clear-felling projects. Also, based on the distance to the nearest hydrologically connected European sites the Lough Forbes Complex SAC and the Ballykenny-Fisherstown Bog SPA and the extent of intermediary lakes the FAC is satisfied there is no likelihood of significant effects on any European sites arising from the proposal on its own or in combination with other plans and projects.

The EU EIA Directive 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. Neither afforestation nor deforestation 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 II). 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 felling of trees, as part of a forestry thinning 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).

Co Cavan Geo-park sites occur in the wider area per the Cavan County Development Plan, closest being the Shannon Pot (a county heritage site) located in Derrylahan c. 1km northeast from the proposal and the Moneygashel Ringfort a further c. 1.6 km to the northeast. The 24.14 ha proposal site is beside the Cavan Way, a tourism walk / drive along the R206, and while extensive in nature the proposal is confined to thinning and will not involve a change of land use or replanting. There will be some disturbance when works are in progress but these by their nature will be temporary and are normal activities associated with a managed forest carried out under licence with conditions to adhere to a series of requirements and guidelines. The FAC does not consider that the proposal falls within the classes included in the Annexes of the EIA Directive or considered for EIA in Irish Regulations and does not consider that the licensed thinning would result in any likelihood of a significant effect on the environment.

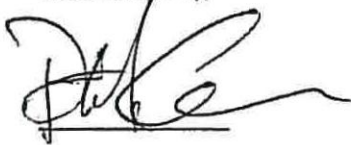
The conditions include that the licensee shall ensure that all felling and planting operations are carried out in accordance with Forestry and Water Quality, Forest Biodiversity, Forest Harvesting and the Environment, Forestry and Archaeology, Forestry and the Landscape, Forestry and Aerial Fertilisation guidelines, the Code of Best Forest Practice - Ireland and the Irish National Forest Standard published by the DAFM. The FAC considers adherence to these requirements will address concerns with regard to protected birds and wildlife.

The licence includes direction regards public road damage, see condition (e), and any such matter is ultimately within the remit of the County Council.

The appeal provides no evidence of a badger population within the proposal or of an incidence of TB in such population and if there is such evidence this should be reported to the District Veterinary Office for Co Cavan.

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 be 'Pat Coman', written over a horizontal line.

Pat Coman on behalf of the Forestry Appeals Committee

TFL00410119 – appeal 046/20 – screening and preliminary examination - FAC

The proposal is for the thinning of 24.14 ha of Sitka spruce (90%) and Japanese Larch (10%) at Derrynatuan, Glangevlin, Co. Cavan in 2020, 2024 and 2028. The proposal does not involve any replanting or change of land use. The proposal site is gentle sloped to west and to south, and the site's highest point is approx 100m elevation. The proposal is in the Upper Shannon catchment and the Shannon Upper sub-catchment, is bounded on the east by the Upper Shannon River and on its north by a tributary 'the Black River', so has hydrological connections to the Shannon and to Lough Allen. There are some lakes closer to the proposal but none are shown to be hydrologically connected downstream. Site is fronted by the R206 along section 2 of the Cavan Way – a National trail –Shannon-Pot to Dowra. The proposal is in a rural area with dispersed settlements and even though there is mostly agricultural farmland adjacent to the proposal forestry is a common feature in the wider area. Some lakes are present in the area but not connected. GSI website shows a sandstone bedrock which is homogenous, thick bedded and medium grained ortho-quartzitic brown coloured sandstone with minor amounts of shale.

The conditions attached to the licence are standard and include strict adherence to the Standards for Felling & Reforestation (October 2019). None of the conditions are considered mitigation measures in respect of any European site in this instance.

Appropriate Assessment Screening
EU Sites

Site Code	Site Name	Distance To (m)	Qualifying Interests
002032	Boleybrack Mountain SAC	2776.89	Habitats Natural dystrophic lakes and ponds. Northern Atlantic wet heaths with <i>Erica tetralix</i> . European dry heaths. <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils. Blanket bogs
000584	Cuilcagh - Anierin Uplands SAC	3111.76	Habitats Oligotrophic waters containing very few minerals of sandy plains. Natural dystrophic lakes and ponds. Northern Atlantic wet heaths with <i>Erica tetralix</i> . European dry heaths. Alpine and Boreal heaths. Species-rich <i>Nardus</i> 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
UK0016623	Cuilcagh Mountain NI SAC	5732.00	Habitats Blanket bogs. Alpine and Boreal heaths. European dry heaths. Natural dystrophic lakes and ponds. Northern Atlantic wet heaths with <i>Erica tetralix</i> . Siliceous rocky slopes with chasmophytic vegetation. Siliceous scree of the montane to snow levels.

Site Code	Site Name	Distance To (m)	Qualifying Interests
000979	Corratirrim SAC	6629.07	Habitats Limestone pavements.
001976	Lough Gill SAC	14232.62	Habitats Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation. Semi-natural dry grasslands and scrubland facies on calcareous substrates. Old sessile oak woods with Ilex and Blechnum in the British Isles. Alluvial forests with Alnus glutinosa and Fraxinus excelsior Species Salmon. River Lamprey. Brook Lamprey. Otter. Sea Lamprey. White-clawed Crayfish.

The proposal is not connected with or necessary to the management of any Natura 2000 site. The proposal is in the Upper Shannon catchment and the Shannon Upper sub-catchment, and shares the catchment and the sub-catchment with part of the Cuilcagh Aneirin Uplands SAC, part of the Boleybrack Mountain SAC and a small section of the Cuilcagh Mountain SAC in Northern Ireland. However the greater part of the Cuilcagh Mountain SAC and all of the Corratrim SAC is in the Erne catchment with no hydrological connectivity to the proposal. In addition Lough Gill SAC is in the Sligo Bay and Lough Drowse catchment, is divided from the proposal by the Boleybrack mountains and is also at some remove. Regards the European sites that are in part within the same Upper Shannon catchment and sub-catchment as outlined all are upland sites at much higher elevations than the proposal site which has elevations of 80m to 100m and none are downstream of the proposal. Without any such downstream connection and at the distances set out above there is no likelihood of significant effects posed by the proposal to these European sites and their qualifying interest habitats or the slender green feather moss species.

The proposal is bounded on the east by the Upper Shannon River and a tributary the Back River along its north boundary, and therefore has hydrological connections to the Shannon and to Lough Allen. The nearest European sites with a downstream connection are the Lough Forbes Complex SAC and the Ballykenny-Fisherstown Bog SPA, these are at a hydrological distance of c. 70km and there are intervening lakes such as Lough Allen, Lough Corry, Tap Lough, Boderg Lough and Bofin Lough which in themselves would provide for the dilution of any sediments or outflows from the proposal were they to arise, and there is no likelihood of significant effects on the European sites.

Cavan County Council planning shows no recent planning permissions in Derrynatun, or in the neighbouring townlands, there are older permissions from the 1990s and earlier. DAFM certification states 74 ha of felling within a 500m radius of the proposal during the last 3 years, of which 24.14 ha being the proposal itself. Other forestry related , projects in the area include an application for 600m of forest road in Derrynatun, 423m of forest road and 21.54 ha of thinning and clear-fell in Cappanaghbane-Gowlat, one townland removed to the south of the proposal. There is also 20.29 ha of thinning licensed in Carricknagrow to the north of the proposal. The proposal is separated by rivers and public roads from these other forestry thinning and clear-felling projects. Also, based on the distance to the nearest hydrologically connected European sites the Lough Forbes Complex SAC and the Ballykenny-Fisherstown Bog SPA and the extent of intermediary lakes the FAC is satisfied there is no likelihood of significant effects on any European sites arising from the proposal on its own or in combination with other plans and projects.

Preliminary examination regards the environment

The EU Directive 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. Neither afforestation nor deforestation 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 II). 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 felling of trees, 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).

A number of Geo-park sites occur in the wider area, closest being the Moneygashel ringfort and the Shannon Pot, a county heritage site, the Shannon Pot being located in Derrylahan c. 1km northeast from the proposal and the Moneygashel ringfort a further c. 1.6 km again to the northeast. The 24.14 ha proposal site is beside the Cavan Way – a tourism walk / drive along the R206, and while extensive in nature the proposal is confined to thinning and will not involve a change of land use or replanting. There will be some disturbance when works are in progress but these by their nature will be temporary and are normal activities in a managed forest carried out under licence and with conditions to adhere to a series of requirements and guidelines. The conditions include that the licensee shall ensure that all felling and planting operations are carried out in accordance with Forestry and Water Quality, Forest Biodiversity, Forest Harvesting and the Environment, Forestry and Archaeology, Forestry and the Landscape and Forestry and Aerial Fertilisation guidelines and the Code of Best Forest Practice - Ireland and the Irish National Forest Standard published by the DAFM.

In conclusion the FAC does not consider that the proposal falls within the classes included in the Annexes of the EIA Directive or considered for EIA in Irish Regulations and does not consider that the licensed thinning would result in any likelihood of a significant effect on the environment.

Pat Coman on behalf of the FAC 23 September 2020

