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24th September 2020

Subject: Appeal FAC131/2020 regarding licence application CN84861

Dear [REDACTED]

I refer to your appeal to the Forestry Appeals Committee (FAC) in relation to the above licence refused by the Minister for Agriculture, Food and the Marine. 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 all parties to the appeal.

Background

Licence application CN84861 for afforestation of 0.6 ha at Gernonstown, Co. Meath was refused by the Department of Agriculture, Food and the Marine (DAFM) on 14th February 2020.

Hearing

A hearing of appeals FAC131/2020 was held by the FAC on 15th September 2020.

FAC Members: Mr. Des Johnson (Chairperson), Mr. Pat Coman, Ms. Bernadette Murphy, Mr. Vincent Upton

Decision

Having regard to the evidence before it, including the licence application, Departmental file, the notice of appeal, submissions received and, in particular, the following considerations, the Forestry Appeals Committee (FAC) has decided to confirm the decision of the Minister to refuse licence CN84861.

The licence application pertains to 0.6 ha of afforestation with mixed, native species at Gernonstown, Co. Meath some 3.5km west of Slane. No fertiliser or drainage is proposed while herbicide weed control would be employed in years 1 and 2. Stocking fencing would be provided at the north western boundary. The landscape in this area is classified as of Very High Landscape Value, High Landscape Sensitivity and Regional Landscape Importance by the County Council. A stream lies to the south of the proposal that flows easterly. The proposal was referred to the County Council which noted the landscape sensitivity and archaeological heritage of the area but stated that they had no objection in principle to the proposal. Referrals were also made to Inland Fisheries Ireland which did not reply and the NPWS which replied stating no comment.

The following reasons were provided in the refusal letter along with an archaeological report

- Environmental Considerations,
- Landscape Considerations,
- The development is likely to have significant adverse impact on an archaeological, historical or cultural site or feature. See archaeological report included.

The archaeological report, which included diagrams, outlined concerns regarding the density and significance of archaeological monuments in the area and gives particular regard to a medieval church and graveyard situated to the northeast of the proposal. It is suggested that aerial imagery indicate the presence of a larger enclosure that might predate the current boundary wall and concerns are expressed regarding the sensitivity of the site and the possible extension of burials outside of the boundary wall.

There is one appeal against the decision made by the applicant. The grounds are based on a number of suggested shortcomings in the refusal decision and supported by a number of photos and images. It is suggested that woods form part of the archaeological heritage of the Appellant's house and grounds and that this is evident from historic maps of the area. It is noted that there is an existing hedgerow and laneway, described as a trackway to Rushwee Church, between the proposal lands and the church and graveyard and that this is a low lying area close to a river which may be unsuitable for burials. It is suggested that there is no evidence of a larger enclosure surrounding the church and graveyard from aerial imagery or on the ground. It is suggested that the decision is contrary to planning decisions of the County Council which approved the construction of a dwelling in the area. It is also suggested that the proposal would have a positive impact on the environment and biodiversity and the landscape as it is comprised of mixed native species. The presence of other developments in the area including a quarry are noted with reference to the nature of the proposed mixed native species woodland and the visual benefits it might provide.

Following the appeal the DAFM provided a statement and documents to the DAFM in line with the requirements of the Forestry Appeals Committee Regulations 2018 (SI 68 of 2018), which were provided to the Appellant. In this, the DAFM Inspector suggested that landscape effects would not be a concern of the proposal on further consideration and noting the report provided by the Archaeologist. However, they suggest that an appropriate assessment of possible effects on conservation sites might be required and that archaeological concerns still remained. A second archaeological report, following a site visit and accompanied by images, formed part of the statement which was prepared by the DAFM Archaeologist following a site inspection and provides further detail on the considerations of the proposal.

The FAC considered all of the information submitted to it by the DAFM and the Appellant and examined publicly available maps and information of the area. Regarding suggested impacts on the landscape the FAC noted in particular the small scale and nature, being of mixed native species, of the proposal and that the application was referred to the County Council which did not raise concerns in this regard. While the landscape of the area is sensitive, the FAC considered that woodland of this nature is well suited to the area and would provide private and public benefits to the local landscape. In addition, the FAC agree with the Appellant's suggestion that forests form part of the historic heritage of the lands and

were evidently more abundant in the past. In relation to environmental concerns, the FAC again took particular note of the scale and nature of the proposal and consider that the proposal is likely to have positive impacts on biodiversity in the area and would likely compliment existing mature hedgerow trees, which may be in decline. However, the Inspector is correct to highlight that an appropriate assessment screening would be required before any decision to grant a licence could be made. Regarding impacts on monuments and the archaeological heritage of the area the FAC considered the detailed grounds, including imagery, submitted by the Appellant and the reports prepared by the DAFM Archaeologist, in particular the second report following a site visit. The FAC considers that the DAFM have given sufficient consideration to the application and provided details of the reasoning and evidence that was employed in making the recommendation to refuse. The FAC also took note of the fact that the recommendation of refusal was referred to the National Monument Service of the Department of Culture, Heritage and the Gaeltacht which agreed with the recommendation. The FAC considers that a precautionary approach is warranted in this case given the sensitive nature of the archaeological heritage in the area. Based on the weight of evidence available to it the FAC concluded that the DAFM decision to refuse the application should be confirmed.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Vincent Upton', written over a horizontal line.

Vincent Upton On Behalf of the Forestry Appeals Committee

