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25th September 2020

Subject: Appeal FAC441/2019 regarding licence TFL00351019

Dear [REDACTED]

I refer to your appeal to the Forestry Appeals Committee (FAC) in relation to the above licence issued 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

Felling licence TFL00351019 for thinning of 11.8 ha at Millpark, Co. Leitrim was issued by the Department of Agriculture, Food and the Marine (DAFM) on 5th December 2019.

Hearing

A hearing of appeal FAC441/2019 was held by the FAC on 23rd September 2020.

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

Decision

Having regard to the evidence before it, including the licence application, processing by the DAFM, the notice of appeal, and, in particular, the following considerations, the Forestry Appeals Committee (FAC) has decided to confirm the decision of the Minister regarding licence TFL00351019.

The felling Licence pertains to thinning of Sitka spruce, western red cedar, Scots pine and pedunculate oak across 11.8 ha in 2019 and 2023. The site is crossed by an ESB line. The DAFM described the site as flat to moderate with a podzolic soil. The proposal is situated in the Shannon (Upper 040) subcatchment of the Upper Shannon (26C) catchment. A river, named as the Drumsna on EPA maps, borders the western edge of the lands but is setback from the forest. The site lies about 2.5km northeast of Drumsna in a rural, agricultural landscape. It is surrounded by agricultural land, with some existing forests to the east, and minor public roads lie to the north and west of the forest.

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.

In a statement to the FAC, the DAFM stated that they are satisfied that the decision met their criteria and guidelines and that they confirm the licence. They suggest that the appropriate assessment screening was undertaken following their procedures and that European sites within 15km were considered and only one site was identified, Cuilcagh – Anieran Uplands SAC and the qualifying interests of this site are listed. They suggest that the proposal area drains to the south while the SAC is located to the north.

In considering the appeal and before making a decision, the FAC undertook a screening in relation to the requirements of the Habitats Directive and copies of these considerations are contained in the public file. The proposal is not connected with or necessary to the management of any European site. There is one site whose boundary falls within 15km of the proposal.

Cuilcagh - Anierin Uplands SAC sits on the boundary of the Erne and Upper Shannon (26A) catchments some 14.6km to the north of the proposal and there is no hydrological connection between the proposal and the SAC. Furthermore, the extensive separation distance would preclude any other form of effects from arising. The stream to the west of the forest flows southerly through Headford Lough and then into Gortconnellan Lough before meeting the Shannon which flows southerly and eventually flows into Lough Forbes Complex SAC. The proposal being for a thinning is not likely to generate significant runoff, such as sediment, and were such material to reach the river it would be extensively settled and diluted by the lakes before it would meet the Shannon and could not be considered likely to result in significant effects on sites further downstream. Having regard to the nature, small scale and location of the proposal, its degree of separation from European sites and the conservation objectives of those sites, the FAC concluded that the proposal is not likely to have any significant effect on any European site, itself or in combination with other plans or projects and that appropriate assessment under Article 6 of the Habitats Directive was not required. The FAC's conclusion concurred with the conclusion reached by the DAFM following screening.

In deciding to confirm the decision of the Minister to grant the Licence, the FAC concluded that the proposed development would be consistent with Government policy and Good Forestry Practice. Before making its decision, the FAC considered all of the information submitted with the application, the processing of the application by the DAFM, the grounds of appeal and any submissions received.

Yours sincerely,

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

Vincent Upton On Behalf of the Forestry Appeals Committee



FAC441/2019 TFL00351019 Millpark, Co. Leitrim

23rd September 2020

Before making its decision the Forestry Appeals Committee (FAC) undertook an appropriate assessment screening of the proposal in line with the Habitats Directive and examined the proposal from the perspective of the likelihood of significant effects on the environment. These considerations were based on information provided by parties to the appeal, including the original application, and available in the public domain. The FAC is satisfied that the information available to it is sufficient to undertake these considerations of the proposal.

The felling Licence pertains to thinning of Sitka spruce, western red cedar, Scots pine and pedunculate oak across 11.8 ha in 2019 and 2023. The site is crossed by an ESB line. The DAFM described the site as flat to moderate with a podzolic soil. The proposal is situated in the Shannon (Upper 040) subcatchment of the Upper Shannon (26C) catchment. A river, named as the Drumsna on EPA maps, borders the western edge of the lands but is setback from the forest. The site lies about 2.5km northeast of Drumsna in a rural, agricultural landscape. It is surrounded by agricultural land, with some existing forests to the east, and minor public roads lie to the north and west of the forest.

Appropriate Assessment Screening

The proposal is for thinning in a managed forest and is not connected with or necessary to the management of any European site. There is one site whose boundaries fall within 15km of the proposal and it is listed below alongside its distance from the closest boundary to the centre of the proposal, and its qualifying interests and conservation objectives.

Cuilcagh - Anierin Uplands SAC sits on the boundary of the Erne and Upper Shannon (26A) catchments some 14.6km to the north of the proposal and there is no hydrological connection between the proposal and the SAC. Furthermore, the extensive separation distance would preclude any other form of effects from arising. The stream to the west of the forest flows southerly through Headford Lough and then into Gortconnellan Lough before meeting the Shannon which flows southerly and eventually flows into Lough Forbes Complex SAC. Even in the absence of mitigation measures the proposal being for a thinning is not likely to generate significant runoff, such as sediment, and were such material to reach the river it would be extensively settled and diluted by the lakes before it would meet the Shannon and could not be considered likely to result in significant effects on sites further downstream.

The proposal would occur within a semi-mature forest surrounded by agricultural land with access to the public road. The forests does not adjoin another forest while a number are present in the landscape. There is a forest road application in the townland and a licence for clearfell of 9.81 ha (LM10-FL0036) granted in 2020. There are no recent afforestation or road licences granted in the area. The area is rural and agricultural and there are few other permissions granted two planning permissions to the north and south for a dwellings. Due to the absence of any pathway for significant effects to a European site and the nature and scale of the proposal there is no likelihood of these other plans and projects resulting in an

in-combination effect with the proposal. There are no licence conditions that relate to the mitigation of effects on a European site and none were considered in the screening.

Having regard to the nature, small scale and location of the proposal, its degree of separation from European sites and the conservation objectives of those sites, the FAC concluded that the proposal is not likely to have any significant effect on any European site, itself or in combination with other plans or projects.

Site Type	Site Code	Site Name	Distance To (m)	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives	Assessment
SAC	000584	Cuilcagh - Anierin Uplands SAC	14555.65	Habitats 3110 Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) 3160 Natural dystrophic lakes and ponds 4010 Northern Atlantic wet heaths with <i>Erica tetralix</i> 4030 European dry heaths 4060 Alpine and Boreal heaths 6230 Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)* 7130 Blanket bogs (* if active bog) 7140 Transition mires and quaking bogs 7220 Petrifying springs with tufa formation (<i>Cratoneurion</i>)* 8110 Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) 8220 Siliceous rocky slopes with chasmophytic vegetation Species 1393 Slender Green Feather-moss (<i>Drepanocladus vernicosus</i>)	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000584.pdf	No likelihood of significant effects

Examination of Environmental Impacts

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).

The proposal is of a small scale and a thinning, without the clearance of land, which would be normal activities in a managed forest and would be carried out under licence and with conditions to adhere to a

series of requirements and guidelines. No clearfelling or replanting is proposed. The forest is situated in an agricultural and rural landscape and such activities would not be out of keeping with the area. The landscape is not designated in this area and is considered to have a high capacity to accommodate forestry by the County Council. There are single dwellings to the east but at a remove and existing access to a minor public road to the south is provided. Traffic and noise will likely increase during operations but this would be of a limited nature and timescale and would not be out of keeping with other management practices in the area. There are a number of conditions related to the protection of biodiversity and water quality on the licence and, taking account of the scale and nature of the proposal and noting marked watercourses adjacent to the site, the proposal is not considered likely to result in a significant impact on water quality or biodiversity. There are additional conditions on the licence related to the protection of Curlew habitat during the nesting season and the FAC considers these to be appropriate and acceptable. There are no nature conservation areas in the vicinity and the FAC concluded that there is no likelihood of a significant effect on any European site. There are conditions on the licence regarding the management of operations that mean that the occurrence of waste and pollution of a significant degree are not likely. There are recorded monuments in the site and there are conditions attached to the licence to control operations in this area and the FAC is satisfied that these are acceptable to protect the monuments. 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 it would result in any real likelihood of a significant effect on the environment.

Vincent Upton
On Behalf of the Forestry Appeals Committee

