



**An Coiste um Achomhairc
Foraolseachta**

Forestry Appeals Committee

25 September 2020

[REDACTED]
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Our ref: FAC 443/2019

Subject: Appeal in relation to felling licence TFL00372219

Dear [REDACTED]

I refer to the appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine (DAFM) in respect of felling licence TFL00372219.

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 TFL00372219 was granted by the Department on 17 December 2019.

Hearing

A hearing of appeal 443/19 was conducted by the FAC on 16 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 cancel the decision to grant the Licence (TFL 00372219).

The proposal is for felling (thinning) on a stated site area of 1.29ha at Grange, Fethard on Sea, Co. Wexford. The application states that thinning would be carried out on a phased basis between years 2019 – 2030.

DAFM referred the application to the National Parks and Wildlife Services (NPWS). The response dated 29 July 2019 states 'no comments to make' but includes general observations in respect of requirements under the Habitats and EIA Directives.

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The DAFM issued the Licence dated 17 December 2019 subject to standard conditions plus Condition (h) requiring adherence to Standards of Felling & Reforestation (October 2019).

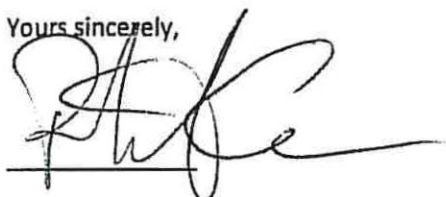
There is a single appeal against the DAFM decision to grant the Licence. The grounds of appeal contend that based on the information submitted it is not possible to grant a licence in accordance with the requirements of the EIA and Habitats Directives. Reference is made to Court judgments. The grounds include that there are Natura 2000 sites within 15km, and this is a trigger for Appropriate Assessment. Also, the Inspector does not show evidence on which it was decided that there was sufficient information to base a sound judgment in respect of Natura 2000 sites and does not state in which catchments the Natura 2000 sites lie. The appellant contends that in these circumstances the only legal answer is to screen the proposal in for Appropriate Assessment.

In response to the appeal, DAFM state that the proposed development was site and desk assessed and the decision was in accordance with S.I. No.191/2017 and the 2014 Forestry Act. The project lands adjoin Bannow Bay SPA and Bannow Bay SAC and having reviewed the qualifying interests it is concluded that there would be no significant effect alone, or in combination.

The applicant responded to the appeal contending that the grounds of appeal do not claim that there would be an effect on the environment. The application is for thinning of mostly broadleaves over a number of years. If thinning is not done soon only poor-quality trees will be left instead of good mature trees on a site designated for continuous forest cover. The area was historically wooded.

Based on the information before it, the FAC is not satisfied that a satisfactory screening in accordance with the provisions of Article 6(3) was undertaken prior to the decision to grant the licence. In particular, noting the proximity and stated hydrological connection to Bannow Bay SPA, the FAC is not satisfied that a satisfactory assessment was made of possible impacts, if any, on the qualifying interests of this designated site and no adequate reasoning is given for the conclusion of no likelihood of significant effects. Furthermore, given the proximity to both Bannow Bay SAC and Bannow Bay SPA, it is considered that no satisfactory assessment of potential in-combination effects of the listed projects (both forestry and non-forestry related) was undertaken. The FAC does not consider that there is sufficient information available to it in this instance to undertake a screening for the likelihood of significant effects on a Natura 2000 site. For the above stated reasons, the FAC decided to cancel the decision to grant the licence.

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