



25th September 2020

Subject: Appeal FAC448/2019 regarding licence TFL00275119

Dear [REDACTED]

I refer to the 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 TFL00275119 for thinning of 7.09 ha at Codd/Shean, Co. Offaly was issued by the Department of Agriculture, Food and the Marine (DAFM) on 9th December 2019.

Hearing

A hearing of appeal FAC448/2019 was held by the FAC on 16th 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, 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 TFL00275119.

The licence pertains to 7.09 ha of Norway spruce and 2.55 ha of lodgepole pine (south coastal) proposed for first thinning in 2019 at age 23. The land forms part of a larger farm holding and the application proposes to transport timber to the north with stacking close to a farmyard. The site is described as being on mainly modified peats and flat to moderate and is not crossed or adjoined by an aquatic zone. The Geological Survey of Ireland describe this area as limestone but there are no recorded karst features or underground hydrological connections in the area. The proposal is situated in the Figile subcatchment of the Barrow catchment. A river, given as the Cloncanon by the EPA, flows east west some 100 to 150 metres to the north of the forest and separated from it by agricultural fields and hedgerows. While this stream will be crossed to transport the harvested timber there is an existing bridge in place.

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 there is no connection from the proposal to any water catchment and that they have been associated with the plantation for over 20 years and that they do not expect a significant effect on any Natura site.

In considering the appeal and before making a decision, the FAC undertook a screening in relation to the requirements of the Habitats Directive and a copy has been placed on the public file. The proposal 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. The border of the Long Derries, Edenderry SAC lies 2.5km to the east of the proposal. While situated in the same sub-catchment, the forest is situated downstream from the SAC and, coupled with the degree of spatial separation, would mean that there is no pathway for significant effects to occur on the terrestrial habitat associated with this SAC. Given the nature, location and scale of the proposal, the FAC concluded that significant effects on any other European sites would not be likely. There are very few planning permissions granted in this rural area. The general area is rural and remote and situated away from the public road or any dwellings. There are extensive areas of industrial peat harvesting to the south and the Edenderry Power plant lies some 2km to the southwest and a gravel pit operates to the northwest. The County Development Plan and EPA emission data were also examined and considered. There are few other forestry licences granted in the area with four other felling licences granted in the last four years. Due to the absence of a pathway for significant effects to any European sites and the nature and scale of the proposal and other projects, these other plans and projects would not be likely to result in in-combination effects with the proposal. Having regard to the nature, 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 dark ink, appearing to read 'Vincent Upton', written over a horizontal line.

Vincent Upton On Behalf of the Forestry Appeals Committee



FAC448/2019 TFL00275119 Codd/Shean, Co. Offaly

21st 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 licence pertains to 7.09 ha of Norway spruce and 2.55 ha of lodgepole pine (south coastal) proposed for first thinning in 2019 at age 23. The land forms part of a larger farm holding and the application proposes to transport timber to the north with stacking close to a farmyard. The site is described as being on mainly modified peats and flat to moderate and is not crossed or adjoined by an aquatic zone. The Geological Survey of Ireland describe this area as limestone but there are no recorded karst features or underground hydrological connections in the area. The proposal is situated in the Figile subcatchment of the Barrow catchment. A river, given as the Cloncanon by the EPA, flows east west some 100 to 150 metres to the north of the forest and separated from it by agricultural fields and hedgerows. While this stream will be crossed to transport the harvested timber there is an existing bridge in place.

Appropriate Assessment Screening

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

The border of the Long Derries, Edenderry SAC lies 2.5km to the east of the proposal. While situated in the same sub-catchment, the forest is situated downstream from the SAC and, coupled with the degree of spatial separation, would mean that there is no pathway for significant effects to occur on the terrestrial habitat associated with this SAC. The next closest European site is the River Barrow and River Nore SAC a boundary of which lies 16.2km to the south. This SAC covers an area of 12,368 ha and its qualifying interests include a large number of habitats and species. The FAC took particular note of the sensitivity of some of the species associated with the SAC, in particular the Nore Pearl Mussel and Freshwater Pearl Mussel. As noted the Cloncanon river flows over 100 metres to the north of the proposal and flows westerly to join the Figile which flows south and eventually joining the Barrow. The hydrological distance from the closest point to the forest and the boundary of the SAC is over 25 km. While there is no evidence provided of a hydrological connection from the forest to the Cloncanon, or any other river, and no suggestion of such from any party, the FAC considered the possible presence of agricultural drains in the area that might provide a pathway from the forest to the river. However, given the nature of the proposal being a first thinning, without the clearance of land the production of significant quantities of runoff, such as sediment or nutrients, is not likely. Were any runoff to reach the river the hydrological distance to the SAC would be such that settling and diluting would occur and ensure that there would be no likelihood of an effect on the SAC. While an existing bridge on private land across the Cloncanon river will be used to move timber from the forest to the stacking area the FAC does not consider that there is any reason to consider that this could result in a likelihood of any effects on the SAC. Given the nature, location and scale of the proposal, the FAC concluded that significant effects on any other European sites could not be considered likely. There are no conditions on the

licence that relate to the mitigation of effects on a European site and none were considered in this screening.

There are very few planning permissions granted in this rural area. The general area is rural and remote and situated away from the public road or any dwellings. There are extensive areas of industrial peat harvesting to the south and the Edenderry Power plant lies some 2km to the southwest and a gravel pit operates to the northwest. The County Development Plan and EPA emission data were also examined and considered. There are few other forestry licences granted in the area with four other felling licences granted in the last four years. The proposal is surrounded by agricultural land and peatlands. Due to the absence of a pathway for significant effects to any European sites and the nature and scale of the proposal and other projects, these other plans and projects would not be likely to result in in-combination effects with the proposal.

Having regard to the nature, 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	0009 25	The Long Derries, Edenderry SAC	2457.33	Habitats 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites)	http://www.npws.ie/sites/default/files/protected-sites/conservation-objectives/CO000925.pdf	No likelihood of significant effects
SAC	0021 62	River Barrow and River Nore SAC	16200.97	Habitats 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1170 Reefs 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (Glaucopuccinellietalia maritimae) 1410 Mediterranean salt meadows (Juncetalia maritimi) 3260 Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation 4030 European dry heaths 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels 7220 Petrifying springs with tufa formation (Cratoneurion)* 91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles 91E0 Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)* Species 1029 Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>) 1016 Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>) 1355 Otter (<i>Lutra lutra</i>) 1092 White-clawed Crayfish (<i>Austropotamobius pallipes</i>) 1106 Salmon (<i>Salmo salar</i>) 1421 Killarney Fern (<i>Trichomanes speciosum</i>)	http://www.npws.ie/sites/default/files/protected-sites/conservation-objectives/CO002162.pdf	No likelihood of significant effects

				1103 Twaite Shad (<i>Alosa fallax fallax</i>) 1990 Nore Pearl Mussel (<i>Margaritifera</i> <i>durrovensis</i>) 1095 Sea Lamprey (<i>Petromyzon marinus</i>) 1096 Brook Lamprey (<i>Lampetra planeri</i>) 1099 River Lamprey (<i>Lampetra fluviatilis</i>)		
--	--	--	--	--	--	--

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 for a first thinning, without the clearance of land or replanting, 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. The area is remote, rural and agricultural, with areas of industrially harvested peatlands, and these activities would not be out of keeping with the general landscape. 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 degree of hydrological connectivity, the proposal is not considered likely to result in a significant impact on water quality or biodiversity. Geological survey of Ireland maps describe the geology in the area as limestone and there is no evidence of underground hydrological connections in the area. There is no evidence of protected species or habitats in or adjacent to the site and there are no conservation areas in the vicinity. The FAC concluded that there is no likelihood of a significant effect on any European site. Timber is proposed to be stacked close to a farmyard, lanes from which join a minor public road and traffic will likely increase as a result of the operations and there may be some noise disturbance but this will be of a localised and temporary nature. 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 no recorded monuments in the area. 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

