



**An Coiste um Achomhairc
Foraoiseachta**

Forestry Appeals Committee

11 September 2020

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Our ref: FAC 223/2019

Subject: Appeal in relation to felling licence TFL00270719

Dear [REDACTED]

I refer to the appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine in respect of felling licence TFL00270719.

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 TFL00270719 was granted by the Department on 26 August 2019.

Hearing

A hearing of appeal 223/19 was conducted by the FAC on 08 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, all submissions/observations, and carried out a Stage 1 screening in accordance with the provisions of the Habitats Directive and an examination in respect of environmental effects, before deciding to confirm the decision to grant the Licence (TFL 00270719).

The proposal is for the felling of 2.2ha at Cooga, County Sligo. Thinning is proposed in 2019 and clear-felling in 2026. Replanting is proposed with 85% Sitka Spruce and 15% broadleaves.

The application was referred to Sligo County Council, Inland Fisheries Ireland (IFI), the NPWS and the DAFM Archaeologist. The NPWS replied with 'no comment' and there is no response on file from the Archaeologist. Sligo County Council raised the importance of maintaining water quality status. IFI state that the lands lie adjacent to a tributary of the Finned River which is allocated good ecological

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Kilminchy Court,
Portlaoise,
Co Laois
R32 DWT5

Eon/Telephone 076 106 4418
057 863 1900

status. It recommends conditions designed to protect water quality in the event of approval being granted.

The Licence was issued on 25th August 2019 subject to standard conditions.

There is a single appeal against the decision to grant the Licence. The grounds argue that, based on the information supplied, it is not possible to make a decision in accordance with the provisions of the Habitats and EIA Directives. Reference is made to relevant Court judgments. There is a lack of a proper assessment and no assessment of cumulative impacts.

In order to inform its decision, the FAC undertook a Stage 1 screening for Appropriate Assessment and this, together with an examination in respect of likely impacts on the environment, is contained on the public file.

Having regard to the nature and scale of the development and its location, the FAC considered that screening under the Habitats Directive should assess possible effects, if any, on Natura 2000 sites within a radius of 15km. The FAC considered that there is no possibility of significant effects on any Natura site outside of that radius. There are 5 Natura 2000 sites (3 SACs and 2 SPAs) within a 15km radius of the project site. The FAC concluded that there is no hydrological connection between the project site and any of the Natura 2000 sites within the 15km radius. All of the listed SAC sites (Ox Mountains SAC, Killala Bay/Moy Estuary SAC and River Moy SAC) are upstream of the proposed development, at considerable separation distances and without any ecological connecting pathway. The FAC concluded that there is no possibility of any significant effect on any of these sites arising from the proposed development. The Killala Bay/Moy Estuary SPA is 8220m to the west of the project site and its qualifying interests are mainly seabirds and wetland habitat. The project site does not provide suitable habitat for nesting or foraging of any of the qualifying interests and is not hydrologically connected. There is no possibility of the proposed felling and reforestation of 2.2 ha giving rise to any significant effect on this site having regard to its qualifying interests. Aughris Head SPA is 13184m to the north-east of the project site and has the Kittiwake as its qualifying interest. The FAC concluded that the project site does not provide any suitable habitat for foraging or nesting of this seabird and the proposed felling and reforestation would not give rise to the possibility of any significant effect on this site.

The FAC noted that this is a rural agricultural area with a dispersed settlement pattern. The nearest forest to the project site is small, approximately 100m separated and also fronts the public road. Other forestry in the wider mainly consists of small plantations. None of these are hydrologically connected to the project site. In addition, there is a current proposal for afforestation of 6.4ha and a 2019 Licence relating to 5.37ha in the Cooga townland. Having regard to the nature and scale of the proposed development, the existing pattern of development in the area, including small scale forestry, currently proposed afforestation and recently licensed afforestation, the separation distances to any Natura 2000 sites and the absence of any hydrological connectivity, the FAC concluded that there is no possibility of the proposed development, in-combination with other projects and land uses giving rise to significant effects on any Natura 2000 site, having regard to its conservation objectives.

Felling (and reforestation) does not fall within a class of development to which the EIA Directive applies, and the proposed operation does not include works which, by themselves, would be of a class



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of development to which the EIA Directive applies. As such, there is no requirement for an examination of the proposal in the context of the provisions of the EIA Directive.

The FAC considered potential effects on the environment. In terms of environmental effects, the proposed development will give rise to short-term and intermittent noise and disturbance during felling operations but this would not be significant. There would be a visual impact which will change over time resulting from thinning, clear-felling and reforestation. The site does not have hydrological connection to any significant watercourse and any impact on water quality will be short-term and locally confined. As there is no direct hydrological connectivity to the Finned River, there would be no significant impact on fisheries. There would be no significant effect on any designated site or on any archaeological site. The FAC concluded that, having regard to the small scale of the proposal and the existing pattern of development in the area, including forestry projects, there is no possibility that the proposed development alone, or cumulatively with other projects, plans or land uses, would give rise to significant effects on the environment.

In deciding to confirm the decision to grant the licence, the FAC concluded that the proposed development would be consistent with Government policy and Good Forestry Practice.

Yours sincerely,

Pat Coman on behalf of the Forestry Appeals Committee

Proposal development and location

The proposal is for the felling of 2.2ha at Cooga, County Sligo. Thinning is proposed in 2019 and clearfelling in 2026. Replanting is proposed with 85% Sitka Spruce and 15% broadleaves.

The site borders a public road to the south-west. There is a dwelling adjoining to the west and another two on the opposite side of the public road to the south-west. The Finned River is approximately 550m to the east with agricultural fields and a public road intervening. There is no watercourse evident on the site (as per EPA and Google maps) and there is no evidence of a hydrological connection between the project site and the Finned River which flows northwards to enter the sea at a distance of approximately 5.6km. The DAFM Inspector submitted that the project site has no hydrological connection. This is predominantly a rural agricultural area with a dispersed settlement pattern, mainly along public roads.

Appropriate Assessment screening

The proposed development (2.2ha felling) is not connected with or necessary to the management of any Natura 2000 site.

Having regard to the nature and scale of the development and its location, it is reasonable to consider and assess possible effects, if any, on Natura 2000 sites within a radius of 15km. The FAC considered that there is no possibility of significant effects on any Natura site outside of that radius.

There are 5 Natura 2000 sites within a 15km radius of the project site. These, together with their qualifying interests and direct separation distances, are listed below.

Ox Mountains SAC (6719m separation)

- Oligotrophic waters containing very few minerals of sandy plains
- Natural dystrophic lakes and ponds
- Northern Atlantic wet heaths
- European dry heaths
- Blanket bogs
- Transition mires and quaking bogs
- Depressions on peat substrates of the Rhynchosporion

- Marsh Saxifrage
- Geyer's Whorl Snail

Killala Bay/Moy Estuary SAC (8314m separation)

- Estuaries
- Mudflats and sandflats not covered by seawater at low tides
- Annual vegetation of drift lines
- Vegetated sea cliffs
- Salicornia and other annuals colonising mud and sand

- Atlantic salt meadows
- Embryonic shifting dunes
- Shifting dunes along the shoreline
- Fixed coastal dunes with herbaceous vegetation
- Humid dune slacks
- Sea Lamprey
- Narrow mouthed Whorl Snail
- Harbour Seal

River Moy SAC (13915m separation)

- Active raised bogs
- Degraded raised bogs still capable of natural regeneration
- Depressions on peat substrates
- Alkaline fens
- Old sessile oak woods
- Alluvial forests
- Brook Lamprey
- Salmon
- Otter
- White Clawed Crayfish
- Sea Lamprey

Killala Bay/Moy Estuary SPA (8220m separation)

- Bar-tailed Godwit
- Redshank
- Curlew
- Dunlin
- Sanderling
- Grey Plover
- Golden Plover
- Ringed Plover
- Wetlands

Aughris Head SPA (13184m separation)

- Killiwake

There is no hydrological connection between the project site and any of the above listed Natura 2000 sites. All of the listed SAC sites are upstream of the proposed development, at considerable separation distances and without any ecological connecting pathway. As such, there is no possibility of any significant effect on any of these sites arising from the proposed development. The Killala Bay/Moy Estuary SPA is 8220m to the west of the project site and its qualifying interests are mainly seabirds and wetland birds and wetland habitat. The project site, being a mature forest, does not provide suitable habitat for nesting or foraging of any of the qualifying interests and is not hydrologically connected and is at considerable remove from the SPA. There is no possibility of the proposed felling and reforestation of 2.2 ha giving rise to any

significant effect on this site having regard to its qualifying interests. Aughris Head SPA is 13184m to the north-east of the project site and has the Kittiwake as its qualifying interest. The project site does not provide any suitable habitat for foraging or nesting of this seabird and the proposed felling and reforestation would not give rise to the possibility of any significant effect on this site.

This is a rural agricultural area with a dispersed settlement pattern. The nearest forest to the project site is small, approximately 100m separated and also fronts the public road. Other forestry in the wider area mainly consists of small plantations. None of these are hydrologically connected to the project site. There is a current proposal for afforestation of 6.4ha and a 2019 Licence relating to 5.37ha in the Cooga townland. Having regard to the nature and scale of the proposed development, the existing pattern of development in the area, including small scale forestry, currently proposed afforestation and recently licensed afforestation, the separation distances to any Natura 2000 sites and their upstream location from this townland, and the absence of any hydrological connectivity, there is no possibility of the proposed development, in combination with other plans and projects giving rise to significant effects on any Natura 2000 site.

None of the conditions attaching to the Licence granted require any measures to be taken to avoid or reduce effects on any Natura 2000 site.

Examination of Environmental Effects

Felling (and reforestation) does not fall within a class of development to which the EIA Directive applies and the proposed operation does not include works which, by themselves, would be of a class of development to which the EIA Directive applies. As such, there is no requirement for an examination of the proposal in the context of the provisions of the EIA Directive.

In terms of environmental effects, the proposed development will give rise to short-term and intermittent noise and disturbance during felling operations but this would not be significant. There would be a visual impact which will change over time resulting from thinning, clearfelling and reforestation. The site does not have hydrological connection to any significant watercourse and any impact on water quality will be short-term and locally confined. As there is no direct hydrological connectivity to the Finned River, there would be no significant impact on fisheries. There would be no significant effect on any designated site and no significant impact on any archaeological site. Having regard to the small scale of the proposal and the existing pattern of development in the area, including forestry projects, there is no possibility that the proposed development alone, or cumulatively with other projects, plans or land uses, would give rise to significant effects on the environment.

Des Johnson

On behalf of the Forestry Appeals Committee.

9th September 2020

