



An Coiste um Achomhairc
Foraoiseachta

Forestry Appeals Committee

26 April 2021

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[REDACTED]

FAC ref: 420/20

Subject: Appeal in relation to afforestation licence CN85850

Dear [REDACTED]

I refer to your appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine (DAFM) in respect of licence CN85850.

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

Licence CN85850 was granted by the DAFM on 19 June 2020.

Hearing

An oral hearing of appeal 420/20 was conducted by the FAC on 22 April 2021.

Attendees:

FAC Members: Mr Des Johnson (Chairperson), Mr Luke Sweetman, Mr Dan Molloy & Mr Pat Coman

Secretary to the FAC: Mr Michael Ryan

DAFM representatives: Mr Jahn Crane & Ms Mary Coogan

Applicant representative: [REDACTED]

Decision

The Forestry Appeals Committee (FAC) considered all of the documentation on the file, including application details, processing of the application by DAFM and the grounds of appeal, submissions made at the Oral Hearing and all other submissions, before deciding to affirm the decision to approve the licence (Reference CN85850).

The proposal is for afforestation on a stated site area of 5.53ha (in 3 plots) at Halls, Co. Leitrim. Fencing of 780m would also be provided. The proposed stock is 85% Sitka spruce and 15% Broadleaves. Soils

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are stated to be mineral, the site is exposed at an elevation of 50 – 60m and with a neutral aspect. Site preparation would involve woody weed removal and mounding. Slit planting is proposed and fertiliser at the rate of 250kg/ha Granulated Rock Phosphate would be applied. Access is available. A revised stocking was proposed on 20 May 2020, with species map and Bio-map provided.

The Inspector's certification states that the application was desk assessed. The site is not prone to flooding, is not acid sensitive and is not sensitive to fisheries. It is not in a Freshwater Pearl Mussel catchment. There are no archaeological features on the site and no High Amenity issues for consideration. Soils are predominantly podzols and the slope is flat to moderate. The site does not contain or adjoin an aquatic zone. Existing vegetation is grass/rush. Screening for Appropriate Assessment examined Natura 2000 sites within 15km radius of the project lands. Two sites were identified - Cuilcagh-Anierin Uplands SAC and Lough Oughter and Associated Loughs SAC. Both sites were screened out for Stage 2 assessment for reason of the absence of an aquatic zone within or adjoining the project area, the absence of any significant watercourse within or adjoining the project area, and separation distance. There is 38.11% forest cover in the townland, 20.65% within 5km of the project lands and 5.43% in the underlying waterbody. An in-combination report, completed on 29 May 2020, states that the site is in the River Sub Basin (Relagh_010) and has approximately 28% forest cover. Non-forestry related projects include dwellings, slatted sheds, and telecommunications structure. Forestry related projects (since 2017) include afforestation (29), forest roads (3), private felling (44) and Coillte felling (2).

The application was not referred to any other body for comment.

The licence issued on 19.06.2020 and is subject to standard conditions. The species approved are as follows:

- Plot 1 – Sitka spruce (2.54ha) and Broadleaves (0.28ha)
- Plot 2 – Broadleaves (1.3ha) and Alder (0.33ha)
- Plot 3 - Pedunculate oak (1.05ha) and Broadleaves (0.12ha)

There is a single appeal against the decision to grant the licence. The grounds of appeal contend that the EIA Determination is inadequately reasoned. There is no basis for the conclusion reached. There is an error in law. The cumulative effect of this proposal and CN 84574, along with 70ha already afforested in this townland and neighbouring townlands, represents a serious potential fire hazard for the local community. The sustainability and viability of small farmers is being undermined. There was inadequate consultation with Prescribed Bodies. The approval and associated operations threaten the achievement of the objectives set for the underlying waterbody in the River Basin Management Plan. Cumulative effects have not been considered. There is a breach of Article 5(2) of the Forestry Regulations (2017) and the application could not have been legally processed. There would be a negative impact on the value of these HNV lands for wildlife. The approval conditions do not provide for the protection of species of wild birds as would be required under Article V of the Birds Directive. There is concern for a risk to road safety. The road is inadequate. There would be potential impact on cyclists and pedestrians during harvesting operations.

In response, the DAFM state that the appellants have only given a general statement about the EIA assessment with no specifics to address. The documentation lodged with the application was deemed adequate. There is no hydrological connection from the site. The closest watercourse is located across



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a public road. The closest dwelling is 100m away. Approximately 50% of the application consists of native broadleaves – Oak, Alder, Birch. The applicant is a local farmer. The application was processed in accordance with DAFM standard operating procedures and scheme guidelines. The water quality status of the Cloone River Sub-catchment is Good and Not At Risk. A significant pressure in this sub-catchment is agriculture. This is not HNV farmland, but generally heavily compacted mineral soils dominated by soft rush. It is the responsibility of the applicant to carry out the forestry development in compliance with National and International Wildlife legislation. There would be infrequent traffic generated during the lifetime of the development.

An Oral Hearing was convened on 22 April 2021 and all parties were invited to attend. The FAC sat remotely. The applicant's representative, and the DAFM participated remotely. The appellant did not attend. The DAFM detailed the procedures followed in processing the application and making the decision to grant the licence. Approximately 50% of the licensed development would comprise Broadleaves. The in-combination report was considered prior to the making of the decision. The percentages of forest cover included in the screening assessment and the in-combination report are correct in line with IFORIS. A significant consideration in the assessment of other plans and projects was the potential for impact on water quality. This is not HNV land but is poor quality agricultural land. The applicant's representative stated that his client was seeking to achieve a balance between conifers and Broadleaves. In response to the FAC, the applicant's representative stated that it was proposed to provide a 5m buffer along each of the hedgerows shown on the Bio Map submitted but, in time, the tree canopy may spread across this buffer, which would remain as a corridor for wildlife. There is a watercourse on the other side of the road, but this did not need to be shown on the Bio Map. There are no archaeological features on the project lands.

Addressing the written grounds of appeal, the FAC considered, in the first instance, the screening carried out by the DAFM in respect of EIA. The FAC considered that the DAFM had adequate information relating to the characteristics of the proposal, the location, and the nature and characteristics of potential impacts arising from the proposed afforestation of 5.53ha in order to carry out screening. The proposed development is significantly sub-threshold for mandatory EIA. The FAC noted that the site is not prone to flooding, is not acid sensitive and is not sensitive to fisheries. It is not in a Freshwater Pearl Mussel catchment. There are no archaeological features on the site and no High Amenity issues for consideration. Soils are predominantly podzols and the slope is flat to moderate. The site does not contain or adjoin an aquatic zone. Existing vegetation is grass/rush. Having regard to the information before it, the FAC finds no reason to consider that there was any significant or serious error in the DAFM screening or that the conclusion reached is not sound. The FAC noted that this is a rural, agricultural area with sparse population and that the project lands comprise small enclosed agricultural fields which do not appear to have been maintained in recent times. There is maturing forestry adjacent to the south on the opposite side of a public road and other forestry to the north and north-west but there is no information to indicate that these, together form part of a single project or that, combined, they constitute a potential fire hazard for the local community. The applicant is proposing a plantation of Broadleaves and Conifers, with only Broadleaves on the two plots bounding the public road. The project lands do not contain or adjoin an aquatic zone. The FAC noted that the status of the Cloone River Sub-catchment is 'Good' and 'Not at

Risk', and concluded that there is no convincing evidence before it to conclude that the proposal would threaten the achievement of the objectives of the underlying waterbody, either on its own or in combination with other projects in the area. The appellants contend that there is a breach of Article 5(2) of the Forestry Regulations (2017) but fail to substantiate the contention. The DAFM stated that there was adequate information before it to assess the proposal. There is no evidence before the FAC to indicate that these are HNV lands for wildlife or that the proposed development would, in any way, threaten the protection of wild birds in their natural habitat. Having regard to the nature and scale of the proposed development, and to its location, the FAC finds no reason to conclude that it should not be permitted for reason of inadequate road infrastructure or that it would pose a risk to road safety to any road users.

In deciding to affirm 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

A large black rectangular redaction box covering the signature of Pat Coman.

Pat Coman, on behalf of the FAC