



Irish Forestry Unit Trust,

30th October 2025

Subject: Appeal FAC 051/2025 regarding CN96907.

Dear Sir,

I refer to the appeal to the Forestry Appeals Committee (FAC) in relation to the above licence granted by the Minister for Agriculture, Food and Marine (The Minister). The FAC established in accordance with Section 14A (1) of the Agriculture Appeals Act 2001 (as amended) has now completed an examination of the facts and evidence provided by the parties to the appeal.

DECISION.

Having regard to the evidence before it, including the Department of Agriculture, Food, and the Marine (DAFM) record of the decision, the Statements of Fact (SoF) provided by the DAFM, all materials on file, the notice and grounds of appeal, the post-appeal submissions and, in particular the following considerations, the FAC has decided to set aside and remit the decision of the Minister regarding licence CN96907.

THE LICENCE.

Licence CN96907 is for the construction of a forest road 510 metres in length in the townland of Cornacloy, Co. Leitrim.

The application for the licence was published on the Forestry Licence Viewer (FLV) on 04/03/2025. A decision approving the licence was issued on 30/04/2025 subject to 15 Conditions including liaison with Leitrim County Council.

FORESTRY APPEALS COMMITTEE.

A sitting of the FAC was held remotely on the 10/10/2025 which considered the appeal against the decision CN96907. The FAC members present were:

Mr. Seamus Neely (Chairperson), Mr. Vincent Upton, Mr Luke Sweetman and Mr. Iain Douglas.
Secretary to the FAC: Mr. Radoslaw Wojtczak.

BACKGROUND.

The proposal consists of the construction of a forest road 510 metres in length under the Single Consent Procedure according to Section 8 of the Planning and Development (Amendment) Act, 2018, which makes provision for the Department of Agriculture, Food and the Marine to act as the consenting authority for the construction, maintenance or improvement of a road that serves a forest or woodland and ancillary works. The plantation to be served by the road is stated to be 30 years old

The soils on the site are described as “*Mineral, Other*”. The existing forest is described as being at a lower level than the adjoining public road.

The site lies in the Erne 36 Water Framework Directive (WFD) Catchment and the MacneanLoughsconnector_SC_010 Sub-catchment and within the Cornavannoge_010 River Sub-Basin. The nearest WFD River Waterbodies are the Mullaun River 150m east of forest road entrance which had Good Status in the 2019-2024 monitoring period and is Not at Risk and the Cornavannoge River a 4th Order river 300m south of the site which had Good Status in the 2019-2024 monitoring period and is Not at Risk, both are part of the Cornavannoge_010 river waterbody. Forestry is not identified as a pressure on this river waterbody. The underlying groundwater body is the Glenfarne IE_NW_G_042 which had Good Status in the 2019-2024 monitoring period and is Not at Risk.

The application documents before the FAC included a Condition of public roads report, Drainage Details, an Engineers Report, documents supporting a relaxation from road standards, a Gradient Report all dated 02/01/2025, a site notice and a photograph of the site notice in situ dated 07/02/2025, a Harvesting Road Map, a Biodiversity Map, a Proposed Haulage Route all dated 09/01/2025, a Management Plan, Forest Road Required Information and Road Specifications all dated 13/01/2025, a map with gradients of Forest Road entrance and public road dated “Jan 25”, a detailed plan of the forest entrance, a plan of forest entrance and an Inet Pre Approval Submission Report all undated.

The licence application was referred to Leitrim County Council on 14/03/2025 and responses were provided dated 25/03/2025 and 09/04/2025.

The DAFM file on the FLV includes an AA Screening Report, an In-combination Report for the AA Screening Report, Assessment for EIA Requirement, an Inspectors Certification Report all dated 24/04/2025 and a Site Details Report dated 30/04/2025.

The DAFM AA Screening Report identified 8 Natura 2000 sites within 15 km of the proposed forest road : Arroo Mountain SAC (Site Code 001403), Ben Bulbin, Gleniff and Glenade Complex (Site Code SAC 000623), Boleybrack Mountain SAC (Site Code 002032), Corratirrim SAC (Site Code 000979), Cuilcagh - Anierin Uplands SAC (Site Code 000584), Glenade Lough SAC (Site Code 001919), Lough Gill SAC (Site Code 001976), and Lough Melvin SAC (Site Code 000428).

All sites were screened out on the basis that there were no habitats listed as a qualifying interest of the particular Natura site within and/or adjacent to the site of the proposed forest road and/or there was a lack of a sufficient impact pathway, terrestrially, hydrologically or otherwise from the site of the proposed forest road to the particular Natura site.

The file records that there was no third-party submission on the licence.

THE APPEAL.

There is one third-party appeal against the decision to approve this licence application. The grounds of appeal, in brief summary, are as follows:

1. A Breach of Section 11 (1) of the Forestry Regulation (the Site Notice is in error).
2. The Application contains false/misleading information.
3. The Lands were not afforested in accordance with the law.
4. A Failure to provide details of expected emissions contrary to Article 4 (4) of the EIA Directive.
5. The determination of the EIA Screening is based on an inadequately reasoned assessment and is unsound in law.
6. The Licence conditions lack clarity.

7. The assessment for this project under Article 6(3) of the Habitats Directive does not contain precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the proposed works on the protected area concerned.
8. A Breach of Section 10(4) of the Forestry Regulations.
9. The DAFM procedures are not consistent with the requirement for providing a General System of protection commensurate with Article 5 of the Birds Directive.
10. There has been an inadequate assessment under Article 12 of the Habitats Directive (Annex IV species).
11. Access to Justice is prohibitively expensive.
12. The application is in error and is not consistent with Section 6 (2) of the Forestry Regulations.
13. It has not been demonstrated that the application is compliant with the Water Framework Directive.
14. The fees prescribed under SI418 of 2020 were not done so in accordance with the law.
15. Details of the project are inconsistent.
16. There has been a failure to follow the process of the Single Consent System (Circular 03 of 2020).
17. The Licence has conflicting requirements.

The Appellant requested an oral hearing of this appeal.

Post-Appeal Submissions.

The DAFM provided a Statement of Fact in response to the grounds of appeal which was circulated to all parties and has been considered by the FAC in full. A post appeal submission was made by the Appellant in response to the DAFM Statement of Fact. The post-appeal submission was circulated to the other parties. DAFM responded indicating that it had no further submission to make, the Applicant responded that it did not see the relevance of the Appellant's grounds of appeal and that the proposed road is to serve a plantation which is now windblown. The FAC considered the Applicant's submission not to contain any new information in relation to the grounds and that further submissions were not warranted in this case. In the interest of clarity and for the avoidance of doubt, in considering the post-appeal submissions the FAC had regard only to those matters it deemed to be an elaboration or clarification of points raised by the Appellant in the grounds of appeal proper and responses to those grounds.

CONSIDERATION BY THE FAC.

At its sitting on the 10th of October 2025, the FAC had before it the full DAFM record of the decision as made available on the Forestry Licence Viewer (FLV), the Notice of Appeal Form, the grounds of appeal, the Statement of Fact (SoF) provided by the DAFM, the post-appeal submissions and all materials on file.

The FAC having reviewed all the documentation and submissions, including that of the Appellant, considered that there was sufficient information to enable it to assess and determine the appeal without recourse to an oral hearing. The FAC also noted a number of personalised comments contained in the Appellant's appeal and submission in relation to staff of the DAFM. The FAC considered there was no basis for the FAC to alter its procedures or to request further information from the DAFM in relation to the claims of the Appellant.

DAFM STATEMENT OF FACT.

The SoF provided by the DAFM for the appeal which is dated 25/06/2025, confirms the administrative details of the licence application. The SoF states that the DAFM was satisfied that all criteria in its standards and procedures were adhered to in making the decision on the licence application. The SoF also contains a response to the grounds of appeal.

GROUND OF APPEAL.

1. Public Notice.

This ground of appeal contends that because the e-mail address of the DAFM is partially obscured by the head of a nail the site notice is not legible in its entirety in terms of the key details and is therefore not compliant with the Forestry Regulations. In considering these grounds of appeal the FAC noted the response to this ground of appeal marked as ground 1 of the DAFM SoF dated the 25/06/2025. The FAC noted that the other methods of viewing or requesting the licence documents for inspection are legible on the notice, including contact information, as are the methods for making a submission. The FAC noted that the appellant has adduced no convincing evidence that the site notice was not easily visible and legible by persons using the public road for the purposes of Article 11(1) of S.I. No. 191 of 2017. The FAC is not satisfied that an error occurred in relation to the making of the decision in relation to this ground of appeal.

2. Application contains false/misleading information.

This ground of appeal contends that the Pre-Approval Submission Report contains false and misleading information regarding the nature of the soils, the distance of the site from home and the area to be harvested in the next 3 years. In considering these grounds of appeal the FAC noted the response to this ground of appeal marked as ground 2 of the DAFM SoF dated the 25/06/2025.

The FAC noted that the applicant describes the soil type as “Mineral, Other” and that the Forest Road Specification, which was prepared by an Engineer and forms part of the application, describes the soil as less than 2m of peat on a heavy clay formation. The Specification also describes that the forest road will be excavated, except where deep peat is encountered. The DAFM submitted that the soil is surface water gley.

The FAC considered that the appellant has adduced no evidence to substantiate their claims in relation to the soil type on site.

The FAC noted that the licence is addressed to the applicant’s business address whereas the Pre-Approval Submission Report refers to “Distance From Home (kms)”. The Applicant did not contest the figure and the DAFM have described the figure as an administrative error. The FAC considered that it is accepted that the figure is an error, however the FAC further considered that there was no basis to consider that the error was of any significance or seriousness such that it might have any impact on the assessments undertaken by the DAFM or the decision that was reached.

The FAC noted that the Pre-Approval Submission Report refers to the “Area due for harvesting in the next 3 years” as being 22.8 ha. In ground 15 of the appeal the appellant cites project areas of 22.52, 21.82 and 21.81 relating to a number of different projects and purposes unrelated to the forest road project before the FAC.

In considering this ground of appeal the FAC noted the responses marked as ground 15 of the DAFM SoF dated the 25/06/2025.

The FAC further noted that in all relevant documentation on the file for licence application CN96907 the project area is given as 22.82 ha. and that the Area to be Served by the forest road in the licence is 22.82 ha.

The FAC considers that the appellant has adduced no evidence that the information subject of this ground of appeal is false or misleading.

3. Lands were not afforested in accordance with the law.

This ground of appeal contends the forest that the proposed forest road is to serve was not afforested in accordance with the law as a result of an absence of screening for AA and EIA at the time of afforestation. In considering these grounds of appeal the FAC noted the response to this ground of appeal marked as ground 3 of the DAFM SoF dated the 25/06/2025.

The FAC noted that the year the initial afforestation was undertaken was 1995 which follows the introduction of EIA Directive 85/337/EEC on 25/07/1987 but predates its amendment by Directive 97/11/EC (which introduced the requirement for member states to set thresholds for those activities set out in Annex II of the directive or to assess projects on a case-by-case examination) on 03/03/1997. The FAC further noted that the initial afforestation followed the coming into force of the Habitats Directive (Council Directive 92/43/EEC) on 10/06/1994 but predates its transposition into Irish law with The European Communities (Natural Habitats) Regulations 1997 made on 26/02/1997.

The FAC notes that the Appellant has adduced no evidence that the forest which the forest road is to serve was established otherwise than in accordance with the law having regard to the statutory requirements which were in place at the time of its planting. The FAC is therefore not satisfied that the DAFM has erred in its making of the decision on licence CN96907 in so far as this ground of appeal is concerned.

4. Failure to provide details of expected emissions contrary to Article 4 (4) of the EIA Directive.

This ground of appeal makes reference to Annex IIA(3) of the EIA Directive and contends that the developer is required to submit information on the expected residues and emissions and the production of waste from the proposal but has not done so.

In considering this ground of appeal the FAC noted the response marked as ground 4 of the DAFM SoF dated the 25/06/2025. The FAC noted that Annex IIA(3) of the EIA Directive has been transposed into Irish Law with regard to Forest Roads, in Schedule 1 of the Forestry Regulations 2017 as follows:

"INFORMATION TO BE PROVIDED BY THE APPLICANT FOR AFFORESTATION OR FOREST ROAD LICENCE.

3. A description of any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from:

(a) the expected residues and emissions and the production of waste, where relevant;"

The FAC, having examined the information to be submitted by the applicant in the pro-forma – "Pre-Approval Submission Report", noted that there is no heading or section in the document that refers to expected residues, emissions, or waste however, the details of the construction method are provided in the application. The grounds do not identify any likely significant effects from the proposal. The application was for a relatively short section of forest road which, when completed, would not involve any outgoing residues, emissions, or the production of waste. The FAC is not satisfied that that DAFM has erred in its making of a decision on licence CN96907 in so far as this ground of appeal is concerned.

5. EIA Screening inadequately reasoned

This ground of appeal contends that there is a lack of reasoning given for the range and type of criteria contained in the EIA Screening Determination (the "Assessment to Determine EIA Requirement" dated 24/04/2025). In considering these grounds of appeal the FAC noted the response to this ground of appeal marked as ground 5 of the DAFM SoF dated the 25/06/2025.

The FAC noted that the “Assessment to Determine EIA Requirement” is a standard document used by the DAFM for EIA screening. The role of the FAC is to consider whether the DAFM made a serious or significant error, or a series of errors in making the decision under appeal, and whether that decision was made in compliance with fair procedures. In reviewing the “Assessment to Determine EIA Requirement” of 24/04/2025 the FAC is satisfied that the range and type of criteria considered is appropriate for DAFM to determine whether an EIAR was required having regard to the nature, scale, and location of the proposal.

The FAC considered that the claims submitted in the grounds were largely unsubstantiated and based on an unreasonable and unrealistic expectation as to the degree to which a competent authority might give reasons for its decision. The FAC would consider that the purpose of the information considered by the DAFM was generally clear and relevant to the decision.

However, the FAC noted that, in relation to cumulative effects, the DAFM only record that they had regard to forestry related plans and projects. In the SoF, the DAFM submit that they accept that there is a requirement to consider potential effects alongside other existing and approved projects and not just projects of the same kind. The document makes explicit reference to the consideration of forestry projects across a number of thresholds but there is no reference to any non-forestry projects. The FAC was satisfied that this would not meet the required standard for an EIA screening and that this constituted a serious error in the making of the decision.

Furthermore, the application responded positively in relation to,

Is the project area wholly or partially within the Current Distribution and Breeding Distribution for Hen Harrier, as recorded in the current NPWS Article 12 Report?

and submitted that a report was required but no such report appears on the record. A similar positive response is recorded in the “Assessment to Determine EIA Requirement” and no elaboration is given in relation to the response. The SoF from the DAFM suggests that Ecologists would have reviewed the application, that the matter was considered and that it was determined that no report was required. However, the FAC does not consider that there is anything on the record of the decision to indicate this and that in the context of providing reasons for the decision in the undertaking of an EIA screening that such a matter should have been addressed explicitly. The FAC was satisfied that this constituted a further serious error.

Both the consideration of cumulative effects and the consideration of Hen Harrier were identified in the grounds of appeal and the DAFM provided a response in relation to both matters. However, the FAC was satisfied, as identified, that these matters constituted serious errors and determined that the decision should be set aside and remitted for a new screening for EIA to be undertaken.

6. Licence conditions lack clarity.

This ground of appeal contends that a number of conditions of the licence lack clarity with reference to compliance with departmental guidelines. The ground of appeal then elaborates that it is the guidelines themselves that lack clarity, and that they are out of-date. In considering this ground of appeal the FAC noted the response to this ground of appeal marked as ground 6 of the DAFM SoF dated the 25/06/2025.

The FAC considered that the grounds are largely based on the age of the documents and do not engage with the proposal and decision in a meaningful manner.

The role of the FAC is to consider whether the DAFM made a serious or significant error, or a series of errors in making the decision under appeal, and whether that decision was made in compliance

with fair procedures. The FAC did not consider that there as any basis to determine that the decision in this instance was made in error in relation to these grounds.

7. The AA under Article 6(3) of the Habitats Directive lacks precise and definitive findings & conclusions

This ground of appeal contends that the AA Screening is deficient because the DAFM “*Appropriate Assessment Screening Report*” is unsigned, that there is no reference to the In-combination Statement, that the In-combination Statement is not an assessment of other plans & projects and that the NPWS (as the management body for Natura 2000 sites) was not consulted. In considering this ground of appeal the FAC noted the responses marked as ground 7 of the DAFM SoF dated the 25/06/2025.

The FAC noted that question 3 of the “*Appropriate Assessment Screening Report*” is addressed to the District Inspector who gives a “Yes” response, the FAC considers that in such circumstances the author of the report is readily identifiable.

The FAC noted that the DAFM’s In-combination Statement is described as an appendix to the *Appropriate Assessment Screening Report - Appendix A: In-combination report for Forest Road project CN96907*” and that both *Appropriate Assessment Screening Report* and *Appendix A* are dated 24/04/2025. Furthermore, the in-combination report at Section 6 - In-Combination Statement has the following words “*as described elsewhere in the Screening Report.*” and “*The relevant Qualifying Interests/Special Conservation Interests and Conservation Objectives, as listed elsewhere in the Screening Report,*” the FAC therefore considers that the two documents form one report.

The FAC noted that the *Appropriate Assessment Screening Report* is a standard document used by the DAFM for AA screening. The role of the FAC is to consider whether the DAFM made a serious or significant error, or a series of errors in making the decision under appeal, and whether that decision was made in compliance with fair procedures. In reviewing the “*Appropriate Assessment Screening Report*” of 24/04/2025 the FAC is satisfied that the range and type of criteria is appropriate for DAFM to determine whether an AA was required having regard to the nature, scale, and location of the proposal.

The grounds contend that the *Appropriate Assessment Screening Report* lists plans & projects but that there is no assessment of them. The FAC noted that in screening for *Appropriate Assessment* the DAFM recorded the following,

“It is concluded that there is no likelihood of the proposed Forest Road project CN96907 when considered individually, having a significant effect on the relevant European Site(s), as described elsewhere in the Screening Report. The relevant Qualifying Interests / Special Conservation Interests and Conservation Objectives, as listed elsewhere in the Screening Report, have been taken into consideration in reaching these conclusions. Furthermore, it is considered that the regulatory systems in place for the approval, operation (including any permitted emissions) and monitoring of the effects of other plans and projects are such that they will ensure that they do not have any significant effect on those same European Site(s). There is no likelihood that the proposed project will have, or contribute to, any significant effect on those same European Site(s), when considered in combination with other plans and projects.”

The appellant has not provided any specific evidence that this conclusion is incorrect. The grounds do not even go as far as identifying any European site that the Appellant might have concerns about or how the conclusions of the DAFM might be incorrect.

The FAC understands that the DAFM is the competent authority for issuing forestry licences and that referrals to consultation bodies is a matter for the DAFM and as acknowledged in the SoF the DAFM & the NPWS have a protocol for referring licence applications and that this protocol was adhered to.

The FAC is not satisfied that the DAFM has erred in its processing of the application regarding this ground of appeal.

8. Breach of Section 10(4) of the Forestry Regulations.

This ground of appeal contends that the AA Screening & In Combination Statement, the EIA Screening and the Public Authority Consultation Responses constitute Further Information under Article 10(4) of the Forestry Regulations 2017(as amended) and should have been put out for public consultation.

In considering this ground of appeal the FAC noted the responses marked as ground 8 of the DAFM SoF dated the 25/06/2025.

The FAC considers that the term "*additional information*" contained in Article 10(4) of the Forestry Regulations 2017(as amended) is commonly understood to refer to information submitted by the applicant that is additional to the information and documents lodged with the DAFM as licence application. The FAC noted that the DAFM did not request additional information by way of a Further Information Request (FIR) as would be normal practice when seeking additional information. The FAC notes that the DAFM regard the said documents as internal reports and that such documents are published if there is a second public consultation as outlined in the consultation procedure set out in the DAFM SoF of 25/06/2025.

The FAC is not satisfied that the DAFM has erred in its processing of the application regarding this ground of appeal.

9. DAFM procedures are not consistent with the requirement for providing a General System of protection commensurate with Article 5 of the Birds Directive.

This ground of appeal contends that the DAFM procedures are not consistent with the requirement for providing a General System of protection for birds commensurate with Article 5 of the Birds Directive.

In considering this part of the ground the FAC noted the response to this ground of appeal marked as ground 9 of the DAFM SoF dated the 25/06/2025.

The FAC considers that its remit does not extend to making a determination as to whether Ireland has correctly transposed into national law the requirements of the Birds directive. The FAC considers its remit, in this case, to extend only to the decision of the Minister for Agriculture, Food and the Marine to grant a forest road licence following application by the landowner. The FAC concluded that it should make a determination of the appeal against the forest road licence based on its remit as provided in the Agriculture Appeals Act 2001.

The FAC noted that the Wildlife Act 1976 (as amended) confers protection to wild birds and their nests and eggs and does not consider its remit to extend to making a determination of the legality of the Wildlife Acts. The FAC considers that the granting of a forestry licence does not relieve the recipient of their responsibilities under the Wildlife Act 1976 (as amended).

The FAC is not satisfied that an error occurred in the making of the decision in so far as it relates to these grounds of appeal.

This ground of appeal also contends that there has been no assessment for the potential for this project to impact on Hen Harrier.

The FAC noted that question 3.4 of the applicant's Pre-Approval Submission Report *"Is the project area wholly or partially within the part of any Hen Harrier High Likelihood Nesting Area that extends outside of a SPA designated for breeding Hen Harriers?"* is left blank.

The FAC noted that the in the DAFM *"Assessment to Determine EIA Requirement"* the response to the question - *"Is the project area wholly or partially within the Current Distribution and Breeding Distribution for Hen Harrier, as recorded in the current National Parks and Wildlife Service Article 12 Report?"* is - "Yes". The response to a second question - *Has this sensitivity been addressed by Ecology Section and resulting recommendations applied, either through project redesign, conditions to be attached to the forest road licence (if issued), or refusal?"* is also - "Yes".

The FAC noted that the DAFM SoF indicates that all forest road applications and road applications having a possible interaction with Hen Harrier will be assessed directly by Ecology section or is referred to the ecology section by the District Inspector. The FAC noted there is no evidence on the file that the DAFM ecology section has addressed the impact on Hen harrier to support the response of "Yes" to the question. The FAC is satisfied that this represents a serious error in the processing of the licence application as previously noted.

10. Inadequate assessment under Article 12 of the Habitats Directive (Annex IV species).

This ground of appeal contends that there has been no assessment of the potential for this forest road project to impact on species listed in Annex IV of the Habitats Directive with particular reference to bats and otter.

In considering these grounds of appeal the FAC noted the responses marked as grounds 10 of the DAFM SoF dated the 25/06/2025.

The FAC noted that the appellant has adduced no evidence as to the presence of otter or bat in the area to be served by the proposed forest road. The FAC noted that both otter and bat are protected under the Wildlife Act 1976 (as amended) and that the DAFM have published Forestry and Otter Guidelines 2009 to which forestry operators are required to adhere as set out in Section 14.1 of the Forestry Standards Manual 2024 compliance with which is conditioned in the licence

The FAC does not consider that the DAFM has erred as it relates to this ground of appeal.

11. Access to Justice is prohibitively expensive.

This ground of appeal contends that the fee for making an appeal is prohibitively expensive and possibility is contrary to European Law.

In considering this ground of appeal the FAC noted the responses marked as ground 14 of the DAFM SoF dated the 25/06/2025.

The FAC noted that the said fee is prescribed in Article 10 of the Forestry Appeals Committee Regulations 2020 and has been correctly applied by the FAC. The FAC is not the correct forum to seek to challenge the amount of the said fee, and the matter does not ultimately fall within the remit of the FAC itself to determine. The FAC understands that decisions of public bodies may be challenged through the Judicial Review process in line with the Rules of the Superior Courts.

12. The application is in error and is not consistent with Section 6(2) of the Forestry Regulations.

This ground of appeal contends that the mapping submitted in the application documentation is deficient and does not comply with Article (6)(2) of the Forestry Regulations 2017 (as amended).

In considering this ground of appeal the FAC noted the responses marked as ground 12 of the DAFM SoF dated the 25/06/2025.

The FAC noted that under Article 6(2)(a) of the Forestry Regulations 2017 (as amended) an application for forest road works must be accompanied by an Ordnance Survey map or other map acceptable to the Minister which must show inter-alia; public roads, forest roads, aquatic zones, wayleaves, archaeological sites or features, hedgerows, and any other features which may be relevant to the application. The FAC further noted that Section 17.7 of the Forestry Standards Manual 2024 - Biodiversity Map (BIOMap) requires that hedgerows if present must be included on the biomap.

The FAC noted that the legend on the biomap submitted with the application shows a green line representing hedgerows but that no hedgerows are shown. The DAFM SoF acknowledges that hedgerows are present *"The hedgerows are visible from the Departments mapping system."*

This ground of appeal also contends that the applicant failed to identify a townland boundary on the biomap. The FAC noted that the regulations do not give any direction as to what constitutes *"any other features which may be relevant to the application"* it is therefore the responsibility of the applicant to determine initially what other features may be relevant to the application and that the DAFM in processing the application can direct the applicant to revise that biomap to include features which it considers relevant to the application.

The treatment of a hedgerow at the entrance to the lands is well described in the application. The grounds are speculative in nature and submit that historic mapping indicates hedgerows on site but the FAC does not consider that such a claim would supersede the submission of a map and application by the applicant. The DAFM submitted that they considered the map to be compliant such that they could assess the application and issue the decision.

The FAC did not consider that there was any convincing evidence that the application was deficient such that it could determine that a serious and significant error had been made in the making of the decision.

13. Water Framework Directive.

This ground of appeal contends that the *"Pollution Impact Potential"* of the project has not been considered or assessed and it is not clear that the project complies with the WFD.

In considering this ground of appeal the FAC noted the responses marked as ground 13 of the DAFM SoF dated the 25/06/2025.

The FAC noted that the application documentation including a *"Drainage Details"* Report indicates that no new drainage is proposed and that Condition 15 of the licence requires adherence to the Departmental guidelines and requirements regarding Water Quality. The nature and management of the hydrology of the site is documented in the application.

The FAC considers that there is no evidence before it that a waterbody may be affected and is not satisfied that an error occurred in the making of the decision in this regard.

14. The fees prescribed under SI 418 of 2020 were not done so in accordance with the law.

This ground of appeal contends that that the Minister has failed to follow due process before prescribing the fee for an appeal to the FAC and therefore the fee has not been set in accordance with the law.

In considering this ground of appeal the FAC noted the responses marked as ground 14 of the DAFM SoF dated the 25/06/2025.

In relation to the contention in the grounds that the appeal fee (€200) is not legal the FAC finds that the legislative basis for the FAC is set out in Irish law and that the FAC is independent of the DAFM and carries out its functions in an independent and impartial manner in respect of the appeals process, as mandated and required under Irish law. The ground contends that due process was not followed in the setting of the prescribed fee however an appeal to the FAC is clearly not the correct forum in which to seek to challenge the legal standing of the fee, and the matter does not ultimately fall within the remit of the FAC itself to determine. The FAC understands that decisions of public bodies may be challenged through the Judicial Review process in line with the Rules of the Superior Courts.

15. Inconsistent Project Details.

This ground of appeal contends that there is inconsistency in the project area, citing differing areas for the project from a number of sources and for different purposes.

See section in relation to ground 2 above.

The FAC is not satisfied that an error occurred in the making of the decision in regard to this ground of appeal.

16. There has been a failure to follow the process of the Single Consent System (Circular 03 of 2020).

This ground of appeal contends that that the applicant failed to provide details of alternative options in seeking a relaxation or departure from the *“Technical Standard– Design of Forest Entrances onto Public Roads”* and that the conditions of the Leitrim County Council Roads Report should be included in the licence.

In considering this ground of appeal the FAC noted the responses marked as ground 16 of the DAFM SoF dated the 25/06/2025.

The FAC noted that the applicant’s *“Relaxation from Standards”* Report is dated 02/01/2025 and that on 07/02/2025 a general speed limit of 60 km/hr came into force on rural roads so that on 25/03/2025, the date of the Leitrim County Council *“Assessment of Forest Road Scheme FRS25-09”* any relaxation or departure from the *“Technical Standard– Design of Forest Entrances onto Public Roads”* by the applicant was moot.

With regard to the contention the conditions of the Leitrim County Council Roads Report should be included in the licence, the FAC noted that while the DAFM may consult with a person or body whom it considers appropriate, the DAFM is the competent authority for issuing forestry licences and is not necessarily bound by those consultations.

The FAC is not satisfied that an error occurred in the making of the decision in regard to this ground of appeal.

17. Licence has conflicting requirements.

This ground of appeal contends that the licence has conflicting requirements by having a condition to adhere to the DAFM Forestry & Biodiversity Guidelines which in turn requires the retention of hedgerows and the fact that the project requires hedgerow removal to facilitate sightlines at the public road.

In considering this ground of appeal the FAC noted the responses marked as ground 17 of the DAFM SoF dated the 25/06/2025.

The FAC considers that it is widely understood and accepted principle that, in administrative practice, conditions of any type of approval, in this case the licence, apply to a project as approved and, in such circumstances, the DAFM's Forestry & Biodiversity Guidelines apply only in so far as they are relevant and applicable to the development as approved.

The FAC is not satisfied that an error occurred in the making of the decision in regard to this ground of appeal.

CONCLUSION.

In considering the appeal, the FAC had regard to the record of the decision, the submitted grounds of appeal, the SoF submitted by the DAFM, and the additional submissions from all parties. In accordance with Article 14B of the Agricultural Appeals Act 2001, as amended, the FAC is satisfied that significant errors were made in the application as submitted relating to licence CN96907. The FAC is thus setting aside and remitting the decision of the Minister in relation to licence CN96907 to undertake a new screening for EIA requirement and to address the impact of the project on Hen harrier before a new decision is made on the application.

Yours sincerely,

Iain Douglas,
On Behalf of the Forestry Appeals Committee