



John Tansey,

30<sup>th</sup> January 2026

**Subject: Appeal FAC 034/2025 regarding CN94222**

Dear Mr. Tansey,

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 affirm the decision of the Minister regarding licence CN94222.

#### **THE LICENCE.**

Licence CN94222 is for the Afforestation of 17.17 Ha of land in five plots, two plots of FT12 Mixed high forest comprising of mainly spruce with 20% broadleaves and one plot of Native Forest comprising Alder and Birch and two unplanted bio-plots in the townlands of Granaghan (Martin) & Granaghan (Dillon) Co. Roscommon as set out in the licence application.

The application for the licence was published on the Forestry Licence Viewer (FLV) on 22/02/2024. A decision approving the licence was issued on 28/03/2025 subject to a number of conditions including standard planting conditions, compliance with the Environmental Requirements for Afforestation and the Forestry Standards Manual and compliance with mitigation measures in the DAFM AAD.

#### **FORESTRY APPEALS COMMITTEE.**

A sitting of the of the FAC was held remotely on the 9<sup>th</sup> of December 2025 at which appeal Ref: FAC 034/2025 against the decision to grant licence CN94222 as dated 28/03/2025 was considered. The FAC members present were:

FAC Members: Mr. Donal Maguire (Deputy Chairperson), Mr. Derek Daly, Mr. Iain Douglas, Mr. Luke Sweetman. Mr. Edward Carroll (Chairperson – non-participating)

Secretary to the FAC: Ms. Aedín Doran.

At the sitting the FAC had before it the full DAFM record of the decision, the notice and grounds of appeal and a Statement of Fact (SoF) provided by the DAFM.

#### **BACKGROUND.**

The site is located on Regional Road R371 some 4 km south of the village of Scramogue, and 6.7 Km north of Ballyleague, Co. Roscommon.

The soils on the site are described as Basin Peats, Blanket Peats (some) (18%) & Lithosols, Peats (1%) & Peaty Gleys (73%) & Surface water Gleys, Ground water Gleys (8%). The average slope across the site is moderate, at 2% and ranges from 0% to 10%. The habitat on site is described as Wet Grassland Mature treelines, Semi-natural Woodland and Dense Bracken.

The site lies in the Upper Shannon Water Framework Directive (WFD) Catchment and the Shannon [Upper]\_SC\_070 Sub-catchment and is ca. 98% within the Curraghroe Stream\_010 and 2% within the Feorish (Tarmonbarry)\_020 (2%) River Sub-Basins. The nearest WFD River Waterbodies are the Feorish (Tarmonbarry)\_20 ca. 683 m north of the site and the Curraghroe Stream\_010 ca.1.3 Km southeast of the site. Both river waterbodies were of Poor status in the 2019-2024 monitoring period and At Risk. Forestry was not identified as a pressure on either river waterbody.

The application documents before the FAC included a Location Map dated 02/02/2024, a Copy Site Notice dated 12/02/2024, a Photograph of Site Notice In-situ dated 12/02/2024, a Species Map dated 07/02/2024, a Biodiversity/Operational Map dated 07/02/2024, a Fencing map dated 07/02/2024, a Habitat Description and Map dated 07/02/2024, a Revised Species Map dated 16/04/2024, a Soil Analysis Report undated uploaded FLV 29/07/2024, and a Pre-Approval Submission Report undated uploaded FLV 31/07/2024.

The licence application was referred to Roscommon County Council 28/02/2024. There is no record of a reply from the county council.

The DAFM file on the FLV includes an Ecology Report dated 06/06/2024, an Appropriate Assessment Screening Report & Determination (AASRD) dated 22/07/2024, an AASRD In-combination Screening Stage Report dated 22/07/2024, an Appropriate Assessment Report (AAR) dated 22/07/2024, an AAR In-combination Report dated 22/07/2024, a DAFM letter to submitter re: 2<sup>nd</sup> consultation period 25/07/2024, an Appropriate Assessment Determination (AAD) dated 19/03/2025, an AAD In-Combination Report dated 19/03/2025, an Assessment for EIA Requirement dated 19/03/2025, an Inspector's Certification Report 19/03/2020, a Site Details - Pre Approval Report dated 28/03/2025, a Site Plots - Pre Approval Report dated 28/03/2025.

The DAFM ASSRD screened nine Natura 2000 sites within 15 km of the proposed afforestation. Lough Ree SAC (Site Code IE0000440), Lough Ree SPA (Site Code IE0004064), Corbo Bog SAC (Site Code IE0002349), Ballykenny-Fisherstown Bog SPA (Site Code IE0004101), Lough Forbes Complex SAC (Site Code IE0001818), Annaghmore Lough (Roscommon) SAC (Site Code IE0001626), Brown Bog SAC IE0002346), Clooneen Bog SAC (Site Code IE0002348), Fortwilliam Turlough SAC (Site Code IE0000448). Each site is considered in turn with its interests and objectives and reasons are provided for the screening conclusions.

The AASRD concluded that Lough Ree SAC and Lough Ree SPA should both proceed to AA Stage 2. The DAFM carried out an AAR which assessed the likelihood of the proposed afforestation having a significant effect on the two Natura 2000 sites. The AAR concluded that:

*“...the proposed Afforestation project under CN94222, with mitigation measures identified, will itself (i.e. individually) not result in any adverse effect or residual adverse effects on the integrity of the European site(s) listed above. The project was also considered in combination with other plans in the area that could result in potential significant cumulative effects on these European site(s). No potential significant cumulative effects are predicted with the plans and projects listed in the accompanying in-combination assessment.”*

The DAFM AAD determined that:

*“...the proposed project, individually or in combination with other plans or projects, will not adversely affect the integrity of any of the aforementioned European Sites, having regard to their conservation objectives, provided the following mitigation is implemented”:*

Condition 6 of the licence requires that the mitigation measures set out in the AAD are adhered to.

At each stage of the DAFM AA procedure a record of other plans and projects was prepared and considered in-combination with the proposed afforestation for effects on the Natura 2000 sites.

The DAFM also recorded an Ecology Report, dated 06/06/2024 that examined a number of constraints in relation to other environmental matters, in particular whether Plot 5 constituted wetland within the meaning of the Irish Ramsar Wetlands Committee. The habitat on Plot 5 was identified as Dense Bracken (Fossitt Code HD1) and Scrub (Fossitt Code WS1). The Ecology Report found that according to the site visit, no wetlands were present within the site boundary, as per Irish Ramsar Wetlands Committee (2018) – *an identification guide and field survey manual. EPA, Johnstown Castle, Ireland*. The Report concludes that “based on results of desktop study, Application details and results of Site Inspection, it is determined that afforestation of CN94222 will not result in significant adverse effects on Irish Wetlands in accordance with the Ramsar convention”

The record of the decision indicates that a second period of public consultation was carried out following the publication of the AAR.

#### **THE APPEAL.**

There is one third-party appeal against the decision to approve the afforestation licence. The Notice of Appeal and full grounds of appeal were provided to the parties. The grounds of appeal are summarised as:

- The second site notice is incomplete and does not contain details of the location, size or contract number.
- That curlews are foraging within 1.5km of the site.
- The rationale for screening out Ballykenny-Fisherstown Bog SPA is not consistent with the test of Article 6(3) of the Habitats Directive and that an AA is required for this site.
- The Bird Foraging Table (vers10 6th Jan. 2020) which is used by DAFM as a basis screening has itself not been subject to a high-level Appropriate Assessment (AA) and therefore cannot be relied upon as a basis for screening out projects.
- The AA mitigation measures lack precision and clarity and therefore a legally valid Determination cannot be assured.
- The In-Combination Report is just a list of identified projects there is no actual assessment or consideration of in combination effects.

- The wrong County Development Plan is referenced in the In-combination Statement.
- Restricting the in-combination assessment to the two sub-basins mentioned is flawed on the basis that the SAC and SPA are fed from more than these two River Sub Basins therefore In-combination effects could result from River Sub Basins which also feed into the two Natura sites.
- Five-year timeframe for forestry projects is inadequate.
- Pre-2019 forestry projects had inadequate AA Screening therefore the AAD is invalid.
- The statement that there is no possibility of the project contributing to an In-combination effect has not been proven to the requisite degree of scientific certainty and would be easily challenged in law.

**Minister's Statement.**

The DAFM provided a Statement of Fact to the Forestry Appeals Committee (SoF), dated 20/10/2025 providing an overview of the decision and responding to the appeal, a full copy of which was provided to the parties. In summary the statement submits that:

- (a) The decision was made in accordance with DAFM procedures, SI 191 of 2017 and the 2014 Forestry Act (as amended).
- (b) The SoF response to the grounds of appeal is summarised as follows:
  1. The Department is satisfied that the application is compliant with the requirements of Section 11 (1)(b) of the Forestry Regulations and that there is photographic evidence of the site notice in place that was clearly visible from the public road.
  2. That the DAFM carried out the required due diligence in relation to stated and agreed policy on Curlew. And that the DAFM is satisfied that it fully adheres to these requirements and that this approval is in line with agreed procedures.
  3. That it was not possible to provide details on the Forestry Inspector who certified the file until the file was formally certified and the licence approved. The Department has access to curlew information from the National Parks & Wildlife Service (NPWS) and as the department has this information in its own database, there was no requirement to consult with the NPWS directly.
  4. That an AASRD was undertaken by a qualified and competent ecologist working on behalf of DAFM. In exercising professional judgement, scientific best practice and NPWS data relevant to the SPA, the DAFM determined that there is no likelihood of the project, individually or-in combination, having a significant effect on Ballykenny-Fisherstown Bog SPA, or that uncertainty exists in this regard. Use of the Bird Foraging Table is consistent with European Commission Guidance (2018, 2021) and the NPWS 2009 guidance on AA, both cited in the AAD. The mitigation measures prescribed in the AAD include a series of site-specific measures as well as adhering to relevant DAFM Requirements to avoid adverse impacts on Lough Ree SAC and Lough Ree SPA
  5. The in-combination assessment for the AA details how, using various online resources, datasets and DAFM's own databases, other plans and projects were identified within the in the general vicinity of the project area, taken to be the two River Sub-Basins within which the proposal is located.
  6. In Ireland all spatial development sectors undertake Screening for EIA using a combination of objective information relating to the proposed project derived from relevant spatial and temporal criteria/envelopes/limits, statutorily based environmental quality standards/status, and professional judgment. The DAFM uses the WFD sub-basin of a given project as the spatial envelope to identify potential impacts on water and water quality as a natural resource. This spatial envelope (along with a 500m radius, the townland, and a 5km radius and temporal windows of 3 years and 5 years) is also utilised to assess the extent of forestry in the receiving environment, the longevity of that land use, and whether the afforestation project under consideration is likely to have a significant cumulative

impact on the environment, when considered in conjunction with the impact of other existing and/or approved afforestation projects.

#### **CONSIDERATION BY THE FAC.**

At its sitting on the 9<sup>th</sup> of December 2025, the FAC had before it the full DAFM record of the decision as made available on the FLV, the Notice of Appeal Form and grounds of appeal, the Statement of Fact (SoF) provided by the DAFM, 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 considered the grounds of appeal under the following headings, The Site Notice, Curlew, Appropriate Assessment Screening Report and Determination, Bird Foraging Table, AAD Mitigation measures, In-combination Report.

#### **The Site Notice.**

The FAC considered the ground of appeal that referred to the second site notice erected for the second public consultation and the absence of information on the notice. The FAC noted the photograph of the site notice submitted with the appeal. In considering this appeal the FAC noted the DAFM response marked as Ground 1 of the DAFM SoF dated the 20/10/2025. The DAFM submits that it is satisfied that the site notice *"is compliant with the requirements of Section 11(1)(b) of the Forestry Regulations"*. The FAC has taken the reference to *"Section 11(1)(b) of the Forestry Regulations"* to be Article 11(1)(a) and 11(2) of the Forestry Regulations 2017 (as amended).

The FAC noted that there was a public notice in-situ dated 12/02/2024 which included details of the proposed planting and that the Appellant's initial submission on the licence dated 08/03/2024 made direct reference to that notice. The FAC also noted that the appellant's second submission on the licence dated 21/08/2024 referred to the second site notice and included a photograph which shows only what appears to be the applicant's signature.

The FAC considered that the Appellant did make a submission on the licence following the erection of the second site notice, notwithstanding the lack of information on the notice, and did make a valid appeal.

The FAC considered that the lack of information on the second site notice was not a significant error in the particular circumstances of this case or that the decision was made without complying with fair procedures.

The FAC considered the Appellant's submission that they had requested certain information from the DAFM, which had not subsequently been provided. The FAC noted the DAFM's reasoning as provided in their response under Ground 3 in their SoF.

In the particular circumstances of this case, the FAC is not satisfied that the DAFM erred in their processing of the decision under appeal by not providing the information requested by the Appellant,"

#### **Curlew.**

The FAC considered the ground of appeal that Curlew were foraging within 1.5 Km of the site of the proposed afforestation. In considering this appeal the FAC noted the DAFM response marked as Ground

3 of the DAFM SoF dated the 20/10/2025. 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 the FAC further understands that the DAFM & the NPWS have a protocol for referring licence applications to the NPWS 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.

**Appropriate Assessment Screening Report and Determination.**

The FAC considered the grounds of appeal that the rationale for screening out of Ballykenny-Fisherstown Bog SPA IE0004101 is not consistent with the test of Article 6(3) of the Habitats Directive. In considering this appeal the FAC noted the DAFM response marked as Ground 4 of the DAFM SoF dated the 20/10/2025. The FAC understands that the information used in an AA Screening Determination should be up-to-date and based on the best available techniques and methods to determine the likelihood of significant effects. The FAC noted that the DAFM AASRD of 22/07/2024 referenced the NPWS Conservation Objectives for Ballykenny-Fisherstown Bog SPA [004101] which are dated 18 Apr 2025 Version 1 and as such can be considered the most up-to-date information available. The FAC noted that the Conservation Objectives for Ballykenny-Fisherstown Bog SPA [004101] identify that one of the key habitats for foraging of the Greenland White-fronted Goose (Qualifying Interest A395 of the SPA) is *"grasslands (such as wet grassland, callows, semi-improved grassland, and intensive grassland)"* and that the DAFM AASRD of 22/07/2024 was prepared by a qualified ecologist and that the site had been inspected by an ecologist who found that *"No true wet lands or features were present."* and that the *"habitat onsite is dominated by rush which makes it sub-optimal foraging habitat for A395 and the fields relatively enclosed."* The FAC considers that the Appellant has adduced no evidence that the site is suitable foraging for the Qualifying Interest of the for Ballykenny-Fisherstown Bog SPA or that a likelihood of significant effects exists such that this European site should have been screened in for Stage 2 AA.

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

**Bird Foraging Table**

The FAC considered the grounds of appeal that the Bird Foraging Table (version 6th Jan 2020) was not subject to *"a high level Appropriate Assessment"*. The FAC understands that in accordance with Council Directive 92/43/EEC (as amended) *Appropriate Assessment must be made of any plan, project or programme likely to have a significant effect on the conservation objectives of a Natura 2000 site"*. In considering this appeal the FAC noted the DAFM response marked as Ground 4 of the DAFM SoF dated the 20/10/2025 which describes the Bird Foraging Table as *"supporting reference material alongside NPWS conservation objectives, scientific papers, and site surveys."* The FAC does not consider the Bird Foraging Table to be a "plan", "project" or "programme" within the meaning of Directive 92/43/EEC (as amended) and therefore not subject to Appropriate Assessment.

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

**AAD Mitigation Measures.**

The FAC considered the grounds of appeal that the mitigation measures of the AAD lack precision and clarity, therefore the necessary scientific certainty required, and therefore a legally valid Determination cannot be assured. In considering this appeal the FAC noted the DAFM response marked as Ground 4 of

the DAFM SoF dated the 20/10/2025. The FAC, having read the mitigation measures contained in Section 4 of the DAFM AAD of 19/03/2025, considers that they give clear, definitive actions to be taken in each circumstance.

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

#### **In-combination Report.**

The FAC considered the grounds of appeal that the In-Combination Report is just a list of identified projects there is no actual assessment or consideration of in-combination effects, that the wrong County Development Plan is referenced, that in restricting the in-combination assessment to the two sub-basins mentioned is flawed on the basis that the SAC and SPA are fed from more than these two River Sub Basins, that the five year timeframe for forestry projects is inadequate, that pre-2019 forestry projects had inadequate AA Screening therefore the AAD is invalid, that statement that there is no possibility of the project contributing to an In-combination effect has not been proven to the requisite degree of scientific certainty. In considering this appeal the FAC noted the DAFM response marked as Ground 5 of the DAFM SoF dated the 20/10/2025.

The grounds contend that the In-combination Report lists plans and projects but that there is no assessment of them. The FAC noted that published on the FLV is a document labelled "In-Combination Report". The title of this document is "Appropriate Assessment Report Appendix A: In-combination report for Afforestation project CN94222" and it is dated the 19/03/2025. In the heading of this report it is stated that "...the potential for the proposed Afforestation project CN94222 to contribute to an in-combination impact on European sites was considered by the Department of Agriculture, Food & the Marine (DAFM)." and various online resources, datasets and DAFM's own databases were consulted on the 19/03/2025 in order to identify other plans and projects which are also located in the general vicinity of the project area in the River Sub-Basins of Curraghroe Stream\_010 and Feorish (Tarmonbarry)\_020.

The report concludes

*"that there is no possibility that the Afforestation project CN94222, with the mitigation measures set out in Section 4, will itself, i.e. individually, adversely affect the integrity of those European Site(s) screened in (as listed elsewhere in this AA Report. The relevant Qualifying Interests / Special Conservation Interests and Conservation Objectives have been considered in reaching this conclusion. There is no likelihood of any residual effects that might arise, which do not in themselves have an adverse effect, creating an adverse effect on the integrity of the site(s) in-combination with other plans and projects."*

The FAC found that the in-combination report states that the DAFM considered the potential for the proposal to contribute to an in-combination impact on European sites, and in doing so, considered other plans and projects from a variety of sources within the general vicinity of the surrounding River Sub-Basins, and considered the relevant Qualifying Interests and Conservation Objectives of the screened European site in reaching their screening conclusion. 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. Based on the information before it, the FAC is not satisfied that the Minister made a serious or significant error in the AA process.

The FAC noted that the three In-combination reports on file all refer to the Roscommon County Development Plan 2022-2028 which is the operative county development plan at the time the reports were prepared and the decision was made. The FAC found that the DAFM did not make a serious or significant error in relation to having regard to the Roscommon County Development Plan 2022-2028.

The FAC noted that the DAFM's preferred criterion for identifying and assessing potential impacts on water and water quality of Natura sites is the WFD Sub-basin(s) within which the project is located. The FAC noted that the site of the proposed afforestation is located in River Sub-Basins of Curraghroe Stream\_010 and Feorish (Tarmonbarry)\_020.

In adhering to its own processes, the FAC is not satisfied that the Minister made a serious or significant error, or that the decision was not made in compliance with fair procedures with regard to this ground of appeal.

The grounds contend that that the five-year timeframe for including forestry projects in the In-combination Report is inadequate. The FAC noted that the authority conferred by the licence under appeal is exercisable for a period of five years from the date of issue. The DAFM's In-Combination assessment identifies planning permissions in the general vicinity of the afforestation site which also have a lifespan of 5 years and which, if not already utilised, may be utilised during the lifetime of the issued licence. The FAC noted that the Planning Permissions and Forestry Plans and Projects identified in the In-combination Report of 19/03/2025 comply with the 5-year temporal criterion used by the DAFM. In adhering to its own processes, the FAC is not satisfied that the Minister made a serious or significant error, or that the decision was not made in compliance with fair procedures with regard to this ground of appeal.

With regard to the contention that pre-2019 forestry projects had inadequate AA Screening therefore the AAD is invalid the FAC noted that the Appellant has adduced no evidence as to the adequacy of AA Screening for pre-2019 forestry projects.

With regard to the contention that the possibility of the project contributing to an In-combination effect has not been proven to the requisite degree of scientific certainty. The FAC noted that in the conclusion of the In-combination Report of 19/03/2025 it is stated:

*"It is concluded that there is no possibility that the Afforestation project CN94222, with the mitigation measures set out in Section 4, will itself, i.e. individually, adversely affect the integrity of those European Site(s) screened in (as listed elsewhere in this AA Report.)"*

The Appellant has not provided any specific evidence that this conclusion is incorrect. Based on the evidence before it, the FAC is not satisfied that the Minister made a serious or significant error in the AA process.

In considering the ground of appeal that the In-combination effects of the proposed afforestation with other plans and projects have not been adequately considered, although there is no specific evidence of this provided, the FAC noted that the cumulative effect of the proposal both in relation to the characterisation of the project and in terms of likely significant impacts is addressed in Section 2-Project Location- of the Assessment to Determine EIA Requirement. The FAC further noted that while the Minister recorded a separate characterisation of plans and projects in the area in the In-combination Report contained in the AAD of 19/03/2025 (the same date as the EIA assessment was completed) this is not explicitly cross-referenced in the EIA Determination, which itself only refers to forestry projects. While the

FAC would consider it reasonable that the record as a whole should be considered and that the reasons for not considering that the proposal is likely to have a significant effect on the environment might be found in separate documents, it would be clearer if an explicit reference to existing and approved projects was included. In the particular circumstances of this case, given that the DAFM have demonstrated their consideration of the potential cumulative/in-combination effects in various documents across the record of the decision, the FAC did not consider that the lack of an explicit cross-referencing within the EIA determination to be an issue that would, in and of itself, vitiate the Minister's decision to issue afforestation licence CN94222.

**CONCLUSION.**

In considering the appeal, the FAC had regard to the record of the decision, the Notice, and grounds of appeal, and the SoF submitted by the DAFM. The FAC considered the provisions of the Agriculture Appeals Act 2001, as amended, and the Forestry Appeals Committee Regulations 2020 and the relevant legislation under which the decision to issue afforestation licence CN94222 was made. The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures. Therefore, the FAC is affirming the decision of the Minister for Agriculture, Food and the Marine in relation to the granting of licence CN94222 in accordance with Section 14B of the Agriculture Appeals Act 2001, as amended.

Yours sincerely,

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On Behalf of the Forestry Appeals Committee

