



Mr. Liam Malone



16th July 2026

Subject: Appeal FAC137/2024 against licence decision DL34-FL0006

Dear Mr. Malone,

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 14 A (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.

Hearing

Appeal reference FAC137/2024 was considered during a meeting of the FAC held remotely on the 11th March 2026. In attendance:

FAC Members: Mr. Ed Carroll (Chairperson), Mr. Iain Douglas, & Mr. Luke Sweetman.
FAC Administration: Ms. Aedín Doran

In the particular circumstances of this case, the FAC considered that it was not necessary to conduct an oral hearing in order to properly and fairly determine the appeal.

Decision

Having regard to the information before it, including the record of the decision by the Department of Agriculture, Food, and the Marine (DAFM) on the Forestry Licence Viewer (FLV), the notice of appeal, the DAFM's Statement of Fact (SoF), and the submission from the Applicant responding to the grounds of appeal, the FAC has decided to affirm the decision of the Minister to grant felling licence DL34-FL0006 for the reasons set out hereunder.

Background

The licence under appeal is for the clearfell without replanting of 11.19ha of mixed Pine species, predominately Corsican pine, in Murvagh Lower, Murvagh Upper Glebe, Co. Donegal. The proposal is part of a collaboration between the National Parks and Wildlife Service (NPWS) and Coillte Nature and is part of an EU LIFE Insular project¹.

The soil type underlying the project area is AeOUND; wind-blown sands undifferentiated. The project area lies between 3m and 23m above sea level. The average slope across the site is low, at 4%. The existing vegetation on site is 100% WD4 - Conifer plantation.

The proposal is situated within the Donegal Bay (Murvagh) SAC and the DAFM has determined the project is directly connected with and necessary to the management of this European site, namely the restoration of the native sand dune habitats (Annex 1 priority dune habitats) through removal of dead,

¹ [General Description](#)



dying, and mature trees in a commercial conifer plantation. The proposal is within the Ballymagrorty Scotch 010 River Sub-Basin which has 'Moderate' status and its risk status is under review. The proposal is underlain by the Donegal-Ballintra Ground Waterbody which has 'Good' status that is not 'At Risk'.

Appropriate Assessment

The licence application pack included a document titled "Appropriate Assessment Screening Report Sand dune restoration through forest felling and groundworks at Murvagh" completed by an Ecological Consultant on behalf of the NPWS and Coillte. This report was finalised on the 13th February 2023. The report found that "No significant adverse impacts on the QI features of the SAC are anticipated" and that "...the project is considered directly connected with, or necessary to, site management for nature conservation". The Report also states that "In order to achieve successful restoration of forest to dune in a reasonable timescale, targeted scraping of the humus layer, combined with clear-felling, is essential. The conservation objectives for the QI feature would not be achieved in the absence of project actions as there is continuing loss of fixed dune habitat to forest and scrub development, as well as erosion from the sea". This report also concludes that **"YES, the project is considered directly connected with, or necessary to, site management for nature conservation."**

The DAFM produced an "Appropriate Assessment Screening Report & Determination for Felling project DL34-FL0006, at Murvagh Lower, Murvagh Upper Glebe, Co. Donegal" (AASRD) signed by an Ecologist and dated the 30th October 2024. The AASRD screened 14 European sites within 15km of the proposal, and all were screened out with reasons provided.

The AASRD states (emphasis added) "Following AA screening, and pursuant to Article 6(3) of the Habitats Directive, the European Communities (Birds & Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) (as amended) and the Forestry Regulations 2017 (S.I. No. 191 of 2017), as amended by inter alia the Forestry (Amendment) Regulations 2020 (S.I. No. 32 of 2020), DAFM has determined that **the project is directly connected with and necessary to the management of one European site...**"

In addition to the screening decisions accepting that an Appropriate Assessment is not required the FAC also accepts that the project is directly connected with and necessary for the management of the Donegal Bay (Murvagh) SAC. This being so and in line with article 6(3) of the Habitats Directive this is a further reason for an Appropriate Assessment not being required.

In-Combination Report Screening Stage

The AASRD refers to "Appendix A: In-Combination Report for Felling proposed under DL34-FL0006" and states "See File". On file, labelled as "Incombination Screening Stage" on the FLV, is a document titled "Appendix A: In-combination report for Felling and Reforestation project DL34-FL0006". This report states that "Various online resources, datasets and DAFM's own databases were consulted on the 30- OCT-2024 in order to identify other plans and projects which are also located in the general vicinity of the project area in the River Sub-Basin BALLYMAGRORTY_SCOTCH_010." The report states that online data from Donegal County Council, An Bord Pleanála, and the EPA were examined, along with DAFM databases, and also references the Donegal County Development Plan 2024-2030. The report concludes that:

...there is no likelihood of the proposed Felling and Reforestation project DL34-FL0006 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

Referrals & Submissions

There is no record of any third-party submissions on the FLV and the DAFM's SoF indicates that there were none. The application was referred to Donegal County Council and the NPWS. The Co. Council did not respond. The NPWS responded on the 13th June 2023 stating that they had no comment to make on the application.

Grounds of Appeal

There is one third-party appeal against this licence; FAC137/2024 – signed by an individual “on behalf of concerned individuals who frequently walk Murvagh Woods”. The grounds of appeal have been considered in full, and the following is a summary:

1. The Appellant questions the need to carry out the proposal. Existing plantation developed between 1952 – 1984 and is a woodland with a rich diversity of flora and fauna. Large portion of the plantation was “declared a biodiversity site” in the 1990's and should be left alone.
2. The Appellant is concerned about the area chosen for felling and the true size of the area earmarked. The 7ha area for felling is the size of approx. nine football pitches which may surprise the general public.
3. The Appellant is concerned about the impact restoring the dune habitat will have on Murvagh Woods. The removal of the leading edge of Corsican pines could have serious consequences for the remaining Woods. These have acted as a shelter and a transitional zone for the developing woodlands. The Appellant submits there is increased risk of windblow for remaining commercial crop on leeward side.
4. The Appellant expresses serious reservations about how much thought was given to the long-term viability of this habitat restoration proposal and how much aftercare it will be given, considering “no effective effort has ever been made to protect the existing sand-dune system”.
 - a. E.g., the non-removal of stumps implies that the pH of the new soil will always differ to the open Marram grass on the western side of the access road.
 - b. Queries aftercare proposals and lack of operational details available.
 - c. Suggests nearby alternative sites for dune restoration.
 - d. “We wish for attention to be drawn to previous biodiversity reports and other published material relating to the current biodiversity richness of Murvagh Woods”.



- e. Contends that 1947 Forestry Act requires any area of trees to be felled must be replaced by the same area of replanting.

Minister's Statement

The Minister provided an SoF responding to the grounds of appeal and this was provided to the other parties and has been considered by the FAC. The DAFM's SoF stated that the decision under appeal was issued "in accordance with our procedures, S.I. 191/2017 and the 2014 Forestry Act, as amended". The DAFM's SoF referenced the following documents: i) *NPWS (2019). The Status of EU Protected Habitats and Species in Ireland. Volume 2: Habitat Assessments. Unpublished NPWS report. Edited by: Deirdre Lynn and Fionnuala O'Neill*, ii) *NPWS (2011) Donegal Bay (Murvagh) SAC (site code 133) Conservation objectives supporting document -coastal habitats. Version 1*. The DAFM responded to the grounds of appeal as summarised below:

1. The DAFM outlined the LIFE project details including that "The conservation objectives for the site include to restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation (grey dunes) and the humid dune slacks in Donegal Bay (Murvagh) SAC." The DAFM acknowledged that some of the sites chosen for LIFE projects, including Murvagh, have biodiversity value in themselves and are important recreational areas but that LIFE project information states this is being taken into account in the development of the long-term conservation management plans for the area.

The LIFE project locations and operations are informed by detailed ecological assessment. The removal of trees is projected to increase the area of fixed dunes 2130 (a priority habitat) by 25.9% in the Donegal Bay (Murvagh) SAC and an improvement in the condition of the SAC by 37%

2. The DAFM submitted that there are very few opportunities to increase Fixed coastal dunes with herbaceous vegetation (grey dunes) 2130 coverage in Ireland, and these habitats are under pressure nationally due to the vulnerability of insular areas. The management recommendations for the dunes that will be developed as part of the project will be integrated into a Management Action Plan of Biodiversity developed by Coillte, ensuring appropriate long-term management.
3. The DAFM stated that the stumps will be cut as close to ground level as possible but will be preserved to minimize disturbance to the site as a whole, reducing the risk of windstorms and maximizing benefits to nature.

At the limit of the SAC, some thinning will be carried out in the adjacent forest (4ha) to prevent windblow of the area of forest that will be exposed. Opening up the tree canopy at the boundary between plantations and open dunes will also be beneficial to native soil flora and provide a more natural transition to the plantation. Transition areas between dunes and forest plantations are important biodiversity resources, and species such as *Pyrola rotundifolia ssp maritima* are closely associated with these conditions in Ireland. The management recommendations for the dunes that will be developed as part of this project will be integrated into a Management Action Plan of Biodiversity developed by Coillte, ensuring appropriate long-term management.



- “Other Comments”
 - The DAFM submit that the permanent removal of trees and forests (without reforestation) where a felling licence is required under the Forestry Act 2014 may be considered under exceptional circumstances and that this includes deforestation to protect habitats and species listed as Qualifying Interests within SACs and SPAs. The DAFM stated that the policy context for such a decision is described in the DAFM’s “Felling and Reforestation Policy, 2017” document.

Additional Submissions

The Applicant made a submission responding to the grounds of appeal. The FAC has considered this submission in full, and it was circulated to the other parties with no responding submissions made. The Applicant’s submission provided a background to the LIFE project and responded to the grounds of appeal outlining their views regarding the need to carry out felling, the size of the area selected for felling, the impacts, and consequences of the project’s aim of restoring sand dune habitat in an area transitioning into woodland, and the long-term viability and after-care of the proposed habitat restoration.

Considerations of the FAC

The remit of the FAC, as set out in Section 14B of the Agriculture Appeals Act 2001, as amended, is to consider appeals against specified decisions of the Minister and to determine if a serious or significant error, or a series of errors, was made in making the decision under appeal, and if the decision was made in compliance with fair procedures. At its sitting on the 11th March 2026, 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 DAFM’s SoF, and the post-appeal submission from the Applicant, and all materials on file. The FAC considered whether an oral hearing was required in the case of appeal FAC137/2024 and, having regard to the particular circumstances of the appeal, and the information before it, the FAC concluded that it was not necessary to conduct an oral hearing in order to properly and fairly determine the appeal. In particular, the FAC was satisfied that all parties were afforded an opportunity to respond to the appeal, the additional submission, and the position of each other party.

1. In considering this ground of appeal the FAC had regard to the submission by the Appellant that the existing plantation is a woodland with a rich diversity of flora and fauna. The FAC noted that the NPWS is a co-participant with Coillte in the EU LIFE project from which the application for tree felling licence DL34-FL0006 is derived. As outlined in the DAFM’s SoF the LIFE project details include that “The conservation objectives for the site include to restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation (grey dunes) and the humid dune slacks in Donegal Bay (Murvagh) SAC.” The DAFM also acknowledged that the existing forest at Murvagh has biodiversity value and is an important recreational area but that LIFE project information states this is being taken into account in the development of the long-term conservation management plans for the area. Based on the information before it, the FAC is not satisfied that the DAFM erred in their decision to issue DL34-FL0006 in relation to this ground of appeal.
2. In relation to the grounds which express concerns about the area earmarked for felling, the FAC noted that the licence application pack records the area as 11.19ha and that this accords with the area approved in Schedule 2 of the tree felling licence. The FAC considered that these documents were published on the FLV in order to comply with Regulation 10 of the Forestry Regulations 2017 (S.I. No. 191/2017) which requires that the Minister, before making a



decision, publishes notice of the application and provide for submissions/observations by the public. The FAC understands that publication through the FLV is the form of publication chosen by the Minister to inform the public and to make the application and decision freely available and accessible and to facilitate submissions. In these circumstances the FAC considered that the area of 11.19ha to be felled was clearly set out from the outset of the DAFM's consideration of the project. 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 in relation to this ground of appeal.

3. The FAC considered the grounds relating to the impact of the proposed operations on the remaining forest. The FAC noted that windthrow is a significant consideration. The FAC noted that the majority of the trees to be felled are approximately 70 years of age and considered that a forest plantation of this age, particularly in a coastal area which experiences significant wind speeds and high rainfall would be at an increased risk of windthrow and windsnap based on the top-height of the stand even in the event that no felling was proposed. However, the FAC noted the DAFM's statement in their SoF that thinning operations are planned in the forest adjacent to the SAC to mitigate the risk of windblow in the area of the plantation that will be newly exposed. The DAFM contend that opening up the tree canopy at the boundary between plantations and open dunes will benefit native soil flora and create a more natural transition zone between habitats. The DAFM also submitted that the management recommendations for the dunes that will be developed as part of this project will be integrated into a Management Action Plan of Biodiversity developed by Coillte, ensuring appropriate long-term management. In relation to stumps, the FAC noted that the planned operations include cutting stumps as close to ground level as possible but retaining them in order to minimize site disturbance along with the risk of windstorms. Based on the information before it, the FAC is not satisfied that the DAFM erred in their decision to issue DL34-FL0006 in relation to these grounds of appeal.

Other Grounds

The FAC considered the Appellant's submission relating to the long-term viability of this habitat restoration proposal and their queries relating to the planned interventions and their effects on biodiversity. The FAC noted the Applicant's submission regarding these grounds of appeal and their statement that:

The restoration process involves removing the trees, scrub, and brash. Locally, a significant layer of humus has accumulated on the forest floor which poses a threat to dune restoration as it has acidified the soil and acts as nutrient source for regenerating scrub post felling. The project ecologist has estimated that 30% of the 11 ha, i.e., 4 ha, will need to be scraped to remove the humus layer. This material will be deposited in the adjacent forest area distant from the dune system (i.e. in areas of bracken which have very low biodiversity value). The project is currently considering approximately 1 ha trial of stump removal. As part of the LIFE Insular project, there is a commitment to produce a biodiversity area management plan for the dune restoration site and the adjacent forest ensuring multiple and diverse biodiversity benefits that will be maintained in the long term. Most of the Coillte property lies within the Coillte biodiversity area, with biodiversity management as its key objective. It is also recognised that Murvagh beach and forest have a very important amenity value to the local community and visitors from further afield which will also be catered for through ongoing management.



Based on the information before it, the FAC considered that the proposal to fell trees at Murvagh Beach under DL34-FL0006, is underpinned by a significant body of ecological review and preparatory work completed by a team of relevant experts, as recorded on the publicly available LIFE Insular website². The DAFM's Ecologist completed an AA screening of the proposal and determined that the proposed felling will not have any significant effect, alone or in combination with other plans and projects, on any European site.

In relation to deforestation, the FAC noted that Section 1.3.3 of the DAFM's publicly available *Felling and Reforestation Policy, 2017* addresses deforestation and states:

Deforestation is defined in the Forestry Act 2014 as "the conversion of a forest into land that is not a forest." There is obvious need to avoid deforestation in relation to economic and social considerations and environmental considerations such as carbon, landscape and amenity... Notwithstanding this policy to maintain forest cover, there are circumstances where deforestation can occur and will be permitted...

Section 5.2 *Overriding environmental considerations* states that:

In certain situations, trees and forests may be incompatible with the conservation of protected Annex habitats and species at a site and / or national level, and deforestation may be considered. For example, the continuation (via reforestation) of forest cover on a particular site within an SAC may be deemed incompatible with the maintenance and restoration of a particular habitat for which that SAC was designated... In such situations, permanent forest removal may be considered by the Forest Service, on application... Deforestation will be viewed as an option for such sites where the conversion of the site to an 'open habitat' is key to benefiting the habitat or species in question.

In addition to the above, the FAC noted that Part 4 Section 17 (4) of the Forestry Act 2014, as amended, states that the Minister may at any time attach or vary conditions to any licence granted, including (b) *requiring the replanting of trees*, but does not stipulate that this is a requirement of every felling licence. In these circumstances, the FAC is not satisfied that the DAFM erred in their decision to issue DL34-FL0006 in relation to these grounds of appeal.

Based on the evidence before it, as outlined above, the FAC is not satisfied that a serious or significant error, or a series of errors were made in the DAFM's decision to issue DL34-FL0006 or that the decision was made in contravention of fair procedures. Therefore, in light of the provisions of Section 14B. (13) of the Agriculture Appeals Act 2001, as amended, the FAC decided to affirm the decision of the Minister to issue tree felling licence DL34-FL0006.

Yours Sincerely,



**An Coiste um Achomhairc
Foraoiseachta**
Forestry Appeals Committee

Luke Sweetman on behalf of the Forestry Appeals Committee