An Coiste um Achomhairc
Foraoiseachta
Forestry Appeals Committee

DASOS FORAOIS MANAGEMENT LTD

30th October 2026

Subject: Appeal FAC099/2025 regarding TFL01174825

Dear Sir/Madam,

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 (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. The Agriculture Appeals Act 2001, as amended, and the Forestry Appeals Committee Regulations 2020 provide the statutory basis for the functioning and operation of the FAC.

FAC Decision

Having regard to the evidence before it, including the Department of Agriculture, Food, and the Marine (DAFM) record of the decision, the notice and grounds of appeal, the Statement of Fact (SoF) provided by the DAFM, all materials on file including the Appellant's additional submission and, in particular, the following considerations, the FAC has decided to affirm the decision of the Minister regarding licence TFL01174825.

Licence Decision

Tree felling licence TFL01174825 is for the felling of trees on 4.04 hectares at Drumbrahade, Mahanagh, Co. Leitrim as set out in the licence application.

The application for the licence was published on the Forestry Licence Viewer (FLV) on 23rd July 2025. A decision approving the licence was issued on 2nd October 2025 subject to a number of conditions.

Forestry Appeals Committee

A sitting of the FAC was held remotely on the 10th September 2026 at which appeal FAC099/2025 against the decision to grant licence TFL01174825 as dated 2nd October 2025 was considered. The FAC members present were:

FAC Members:	Mr. Liam Ward (Deputy Chairperson), Mr. Iain Douglas, & Mr. Vincent Upton.
Secretary to the FAC:	Mr. Michael Kirwan.

At the sitting the FAC had before it the full DAFM record of the decision, the notice and grounds of appeal, a Statement of Fact (SoF) provided by the DAFM and the additional submission made by the Appellant. The parties to the appeal were provided with all relevant materials.

Background

The appeal relates to the decision of the Minister to grant a tree felling licence on 4.04 hectares at Drumbrahade, Mahanagh, Co. Leitrim. The forest is described as being comprised of a mixture of Sitka spruce and Japanese larch in an 85:15 mixture and subject to windblow and with a fell age of 22 in 2025. The forest would be replanted with a mixture of Sitka spruce and Japanese larch in an 80:20 ratio.

The application was accompanied by operational and environmental information, including a Harvest Plan and a number of maps. The forest is surrounded by agricultural land and is located between two minor public roads in a rural area in a landscape of forest and agricultural land. The stacking and site compound would be located to the east of the site and access is identified to the public road at the north-east of the forest along a proposed forest road. A watercourse is mapped at the western boundary and a setback is included at replanting.

The application was referred to Leitrim County Council, the planning department of which responded that the DAFM should refer to a landscape assessment document in the County Development Plan and an Engineer submitted that in the absence of a haulage route map it was not possible to do a meaningful assessment of the impact on the road network and that in the absence of this information standard conditions, which are stated, should be attached to the licence.

A third party submission was made by the Appellant on the application and this submits that it should be conditioned that a forest road should be in place, that the site is not windfirm and DAFM standards are inadequate, that the lands are on the banks of the Diffagher river and an Ecology report should be required, and the site is close to European sites, amongst other matters raised.

The DAFM undertook a screening for Appropriate Assessment with reference to Article 6(3) of the EU Habitats Directive and identified three sites within 15km of the lands and a fourth site at a greater distance that was hydrologically connected. These were Boleybrack Mountain SAC IE0002032 (c. 2.5 km North East), Lough Gill SAC IE0001976 (c. 8.5 km North West), Cuilcagh - Anierin Uplands SAC IE0000584 (c. 9.9 km East) and Lough Forbes Complex SAC IE0001818 (greater than 15km). Each site is considered in turn with its interests and objectives and reasons are provided for the screening conclusion. Other plans and projects considered in-combination with the proposed felling are also recorded. It was concluded that,

Screened-Out European Sites

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 there is no likelihood of the felling and reforestation project proposed under TFL01174825 having any significant effect, either individually or in combination with other plans or projects, on any of the following European site(s), for the reasons set out in Part A: Screening Report:

- *Boleybrack Mountain SAC IE0002032.*
- *Lough Gill SAC IE0001976.*
- *Cuilcagh - Anierin Uplands SAC IE0000584.*
- *Lough Forbes Complex SAC IE0001818.*

As such, the project does not advance to the appropriate assessment stage in relation to these European Sites.

The DAFM also recorded a consideration of the application across a range of criteria in a document entitled "Project Description, Environmental and Social Considerations" and concluded that the application was not required to be subject to the Environmental Impact Assessment process. This records that consideration was given to submissions from the local authority and the general public. The record as provided to the FAC includes a number of other forms completed by the DAFM.

A decision to grant the licence subject to conditions was issued on 2nd October 2025. The conditions include a requirement to adhere to the Standards for Felling and Reforestation, the retention of broadleaves and any existing natural scrub onsite, contact to be made with the County Council prior to the commencement of operations and a number of conditions that relate to the protection of water quality.

Appeal

There is one third party appeal against the granting of the licence that was received by the FAC on 14th October 2025. The Notice of Appeal and full grounds of appeal have been provided to the Minister and the Applicant and were considered by the FAC. The FAC does not intend to repeat the grounds in full, but they can be briefly summarised as,

- There were procedural errors in relation to public consultation under 10(4) of the Forestry Regulations 2017 and the availability of documentation, Article 6(2) of the Aarhus Convention, an unnamed and uncertified EIA screening document, and a compressed timeframe for the consideration of a submission from a member of the pubic.
- The application was incomplete and internally inconsistent; Access is contingent on an unapproved Proposed Forest Road; operational mapping is missing or incomplete; failure to identify flood risk; Hedgerows existed prior to afforestation.
- The DAFM erred by granting a licence without a reasoned assessment of windthrow/stability risk and its operational and environmental implications; windblow is recorded as at 100% and the risk

was not assessed; the decision does not accord with Good Forestry Practice; no assessment for protected species or species specific mitigations; no assessment of pesticide/chemical use; no assessment of impact of the character of the landscape.

- The DAFM erred by granting a licence without ensuring compliance with Article 5 of the Birds Directive or requiring any Article 9 derogation analysis; the record contains no assessment or seasonal restrictions; C784/23 confirms that Member States must ensure that forestry operations do not occur in the breeding/rearing period in breach of Article 5 unless prior assessment has eliminated the possibility of the harms envisaged by the Article or that a derogation is applied.
- DAFM erred in law by issuing a screening determination on the basis of generic, incomplete and internally inconsistent analysis and by relying on reasoning that is not permissible at screening under Article 6(3) of the EU Habitats Directive; Reforestation was not considered; Reasons lack detail; Factual error in relation to hydrological connectivity to Boleybrack Mountain SAC; In-combination is descriptive and not analytical and relies on other regimes; Generic templates and conclusory assertions and not objective scientific analysis are employed; Screening conclusions are framed as integrity findings without an appropriate assessment; Hydrological/flood-risk elements are mapped but not assessed; no consideration of restocking phase; No article 12 assessment/survey for Annex IV species;
- In relation to the EU EIA Directive, DAFM erred in accepting a checkbox-style EIA screening that lacks a reasoned application of Annex III criteria; no evidence that the original afforestation in 2003 was screened, the whole project must be assessed; failure to resolve potential conflict of interest under Article 9a as the DAFM is a promotional and licencing authority.
- In relation to the EU Water Framework Directive, DAFM erred in not assessing fluvial/pluvial flood-risk assessment; no EPA Pollution Impact Potential analysis; there are no mapped hydrological mitigations on the operational plans; standard setbacks do not address windthrow situations, are irrelevant in flooded areas and not verified by scientific evidence; No WFD compliance statement and in-combination is descriptive not analytical and pressures are not analysed.
- DAFM erred by failing to demonstrate a reasoned consideration of the project in the context of the County Development Plan;
- There are structural issues in the licencing and appeals process; No SEA of Forestry Regulations 2017 and an absence of chemical use reporting/monitoring ;

Minister's Statement

Under 7(2) of the Forestry Appeals Committee Regulations 2020 (S.I. No. 418/2020), the Minister for Agriculture, Food and the Marine is required, in relation to each notice of appeal, to provide to the FAC,

> *(a) a statement showing the extent to which the facts and contentions advanced by the appellant are admitted or disputed, and*
> *(b) information, documents or items in the power or control of the Minister that is relevant to the appeal.*

The DAFM submitted a Statement of Fact, dated 26th February 2026, to the Forestry Appeals Committee providing an overview of the decision and responding to the appeal, a full copy of which was provided to the parties. In brief summary the statement submits that:

- The decision was made in accordance with DAFM procedures, SI 191 of 2017 and the 2014 Forestry Act (as amended).
- Regulation 10(4) leaves the extensions of the consultation period to the discretion of the Minister where additional information is submitted or created and any interpretation to the contrary would negate the clear public interest in a functioning and efficient forestry licensing system and the required tests have been met.
- The DAFM rejects the assertions in relation to alleged deficiencies in relation to the Aarhus Convention; the Minister is not the Minister responsible for Ireland's compliance with the Convention and the Convention is not directly legally applicable; the consultation system, including the availability of the Forestry Licence Viewer is outlined.
- The DAFM position is that clear-felling and replanting an already established plantation forest is a standard operational activity and does not involve an activity or project that falls within the specified categories of forestry activities or projects subject to the requirements of the EIA Directive;
- The submission was considered as part of the processing of the appeal;
- Forest roads do not need to be built prior to submitting a licence for felling, the location of the proposed road has been identified and forest roads are subject to a separate licencing process; the maps submitted were adequate, no aquatic zones are shown to be crossed, the public road is shown, operators must be aware of environmental features, the Appellant does not refer to hedgerows that currently exist, flood risk is illustrated in the Hydrology map, the conditions are appropriate to the site;
- Government policy is outlined; forests left unmanaged would eventually reach a critical height and would most likely suffer windblow and proper management of forest is the best way to avoid windblow; Storm Éowyn was an extreme weather event and windblow damage was inevitable; DAFM's Forestry Standards Manual sets out the agreed procedure with regard to setbacks from power lines and legislation is in place in relation to the control of vegetation around electrical wires; Appeals process not correct forum to change policy;
- The licencing process administered by the Department represents the system of checks and balances by which the Department exercises its responsibilities with regard to protecting Annex IV species; the granting of a felling licence does not exempt the holder from meeting legal requirements set out in the Wildlife Acts; In general, otters do not have a preference for forestry habitat and there will be no alteration of watercourses and forestry machines will not be traversing close to stream side; no European sites with bats and not suitable habitat; DAFM disagrees that its procedures are inconsistent with Article 5 of the Birds Directive, the lands are not within a Hen Harrier area; DAFM applies a wide range of checks and balances during its evaluation of felling licence applications in relation to the protection of water and is in compliance with the Water Framework Directive; the use of plant protection products is governed by legislation; the County

Council did not refer to any adverse impacts on landscape; The replanting objective as identified by the applicant in their application form is consistent with the DAFM Felling and Reforestation Policy (2017).

- The screening process was outlined and DAFM's position is that it was conducted in accordance with the legislation;
- The study referred to in the County Council submission relates to landscapes' capacity to accommodate further commercial forestry in the future; The Minister is the competent authority.
- The fees are appropriate and in compliance with any legal requirements; Matters raised are not relevant to an individual application.

Further submissions

The Appellant made a further submission in response to the Minister's statement and submitted that the general public may not be able to access the Forestry Licence Viewer and that a public sign would be more beneficial, that a number of prescribed bodies were not sent the application and the County Council had queried the available information, that water quality and a number of species would be impacted by the felling amongst other matters raised. The Appellant submits that they stand by all of their grounds. This submission was provided to the parties and the DAFM responded that it considered any further submission would lead to undue repetition.

Considerations of FAC

The FAC gave full consideration to all relevant materials and considered all grounds of appeal prior to making a determination on the appeal. All of the parties to the appeal were provided with all relevant material that was before the FAC. The FAC did not consider that it was necessary to conduct an oral hearing in order to properly and fairly determine the appeal. The FAC was satisfied that each party was given an opportunity to respond to the position of each other party.

Procedural Errors

The FAC considered in the first instance the grounds that contended that procedural errors were made in relation to the publication and availability of information and the public consultation process. The grounds were contested by the DAFM.

In relation to the provisions of Regulation 10(4), the grounds contend that there was a requirement to publish and make available for public consultation a number of documents including screenings by the DAFM and a submission from the public.

Regulation 10(4) provides for the public to make submissions or observations in writing on an application within 30 days and for the Minister to extend the period. That Regulation does not require the Minister to provide for the public to make submissions on the screenings and assessments of the DAFM or submissions from members of the public and these would not form part of the application. As the

Appellant also made the submission during the application consultation it is reasonable to consider that they were aware of the submission and its contents. The grounds also refer to the unavailability of information on site plots however details of the site plots were contained in the documentation that was available during the consultation process.

Regarding the consideration of the submission from a member of the public itself this is recorded as having been received on 3rd August 2025 and is noted in the "Inspector's Certification Report" which was certified on 24th September 2025. The fact that the submission was published on 2nd October 2025 alongside the licence and other documentation is not evidence that due regard was not given to the submission.

The grounds go on to make reference to Article 6(2) and to the Aarhus Convention. The FAC understands the "Aarhus Convention" to be a reference to the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. The FAC understands the Aarhus Convention to be a convention under the UNECE and that, as such, it does not form part of domestic legislation. The Aarhus Convention has been transposed through a number of pieces of EU legislation, including the EU EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU). The grounds refer to Article 6 of the Aarhus Convention but this Article relates to the undertaking of an environmental impact assessment procedure and not to the screening stage as is expressly stated in the Article itself and reflected in the recital of the EU EIA Directive.

The EU EIA Directive defines an Environmental Impact Assessment (EIA) and identifies the projects which are required to be subject to EIA. The Directive sets out in Annex I, a list of projects for which Environmental Impact Assessment (EIA) is mandatory. Annex II contains a list of projects for which member states must determine, through thresholds or on a case-by-case basis (or both), whether or not EIA is required. Neither afforestation nor deforestation, nor a class of development related to the proposal under appeal, are referred to in Annex I. Annex II contains a class of project specified as "initial afforestation and deforestation for the purpose of conversion to another type of land use" (Class 1 (d) of Annex II) and "Any change or extension of projects listed in Annex I or this Annex, already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment." (Class 13 (a) of Annex II). The felling and replanting of trees in a managed plantation is a standard operation undertaken within the same land use and the FAC considers that this activity is not included in the classes of projects of the Annexes of the EU EIA Directive. Accordingly, the FAC considers that a screening for Environmental Impact Assessment or an Environmental Impact Assessment under the provisions of the EU EIA Directive were not required in this instance.

The Irish Forestry Regulations 2017 (SI 191 of 2017) are stated to have been made to give further effect to the EU EIA Directive and the Regulations require the compliance with the EIA process for applications relating to afforestation involving an area of more than 50 hectares, the construction of a forest road of a length greater than 2000 metres and any afforestation or forest road works below the specified threshold where the Minister considers such development would be likely to have significant effects on the environment. The Forestry Regulations 2017 do not provide for the Minister to undertake an EIA in relation to a tree felling licence application. The FAC does not consider that the licence application relates

to an activity for which a screening for an Environmental Impact Assessment (EIA) nor an EIA are required under the relevant legislation.

The references in the grounds that the Appellant relies upon generally relate to other activities and pre-date the Forestry Regulations 2017. The decision of the Compliance Committee referenced in the grounds relates to a different jurisdiction and activity, a nuclear power plant subject to an EIA. The grounds also make reference to the decision of the Court of Appeal in [2017] IECA 247 but that decision related to an application for afforestation, made under previous legislation, which is a legally distinct activity subject to a separate process and the applicant in that instance was not successful in their claims. The DAFM do not employ a list type system on a government website, instead a single, readily accessible map-based system is employed, the Forestry Licence Viewer.

The DAFM states that the procedure for public consultation includes the publishing of documentation on the Forestry Licence Viewer, which was undertaken in this case. The grounds refer to the application only being available on the DAFM website. However, the Forestry Licence Viewer is a standalone website providing a map based and searchable listing and archive of forestry licence applications and related documents.

In this instance, the Minister provided for a period of public consultation, at application stage, in keeping with the requirements of the Forestry Regulations 2017. The Appellant made a submission on the application and this was included in the record of the decision and noted in the DAFM documentation. The FAC considers that there is no basis to conclude that the Appellant was disadvantaged in any way in making the submission and that there is evidence on the record that the Minister had regard to the submission. In the submission made to the FAC in response to the Minister's statement, the Appellant makes reference to potential impacts on the general public. However, the FAC considered that it can only address the appeal that is before it in relation to the related decision of the Minister.

The grounds suggest that the document Project Description, Environmental & Social Considerations (ESC) constitutes an Environmental Impact Assessment screening and was deficient in a number of ways. The DAFM submit that the application does not constitute a form of development that is included in the Annexes of the EU EIA Directive. As previously noted, the FAC considers that the proposal does not form a class of development that is included in the Annexes of the EU EIA Directive and the Forestry Regulations 2017 does not provide for the Minister to undertake an EIA in relation to this form of activity. The FAC reviewed the document in question and noted that it was completed fully and appeared to be in keeping with the policies and procedures of the DAFM. The FAC was not satisfied that an error was made in the process as recorded.

The Appellant claims that the consultation procedures applied by DAFM are not consistent with the Government's own Principles and Guidance but does not substantiate this or provide any basis for the claim. The name of the inspector is clearly provided on the documentation available on the Forestry Licence Viewer.

The function of the FAC is to hear and determine appeals of persons dissatisfied with a decision of the Minister for Agriculture, Food and the Marine made under section 7 of the Forestry Act 2014 and the Forestry Regulations 2017 as it relates to certain forestry activity. The FAC considers that its function does not extend to making determinations on whether Ireland or the EU have fully transposed EU or International laws and agreements or matters of forest policy. The Appellant makes reference to the decision making of the FAC and is evidently aware of past FAC decisions, which frequently address this matter.

The FAC considered that the decision was made following the DAFM policies and procedures and the provisions of the Forestry Act 2014 and the Forestry Regulations 2017. 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 these grounds.

Application Details and Harvest Plan

The grounds contend that the DAFM erred in law and in fact by granting the licence notwithstanding an incomplete and internally inconsistent application with reference to the access route and a number of suggested operational features. The DAFM submitted that it had adequate information to process the application and that there is no requirement for a forest road to be built prior to submitting a felling licence. The DAFM further submit that there are no aquatic zones that need to be crossed, that the public road is shown on the harvest plan, that there is no reference to currently existing hedgerows, that there is no requirement to map individual broadleaf or diverse conifer trees and that a flood risk map is included in the AA screening determination.

As noted in the Statement of Fact submitted by the DAFM, the DAFM has published a set of standards in relation to felling licence application, Standards for Felling and Reforestation (DAFM, 2019). In relation to a submitted harvest plan it is stated on page 2 that any existing and planned forest road to and from the public road must be identified. These Standards also include a sample Harvest Plan and associated mapping. The Harvest Plan and maps submitted with the application includes the proposed location of the forest road and the connection to the public road, which the FAC considers to be in keeping with the published Standards of the DAFM. The FAC considers that there is no reason why the tree felling licence could not be submitted, accepted, processed and granted based on a proposed road. Forest road works and entrances to the public road are subject to a separate consent process and the granting of a tree felling licence does not exempt the landowner from the requirement to attain a licence for forest road works where required. The grounds provide no basis to consider that the Applicant does not intend to employ the identified proposed road as access from the forest to be felled to the public road. The Application clearly identified the proposed forest road to the point of access to the public road.

The application mapping identifies that an aquatic zone is located to the west of the forest but this would not be crossed as the forest is located to the east of the aquatic zone and extraction would be easterly to the stacking area. In addition, the hydrology of the site and the proximity to waterbodies is recorded in the screening undertaken by the DAFM. The grounds go on to make a number of general claims that there

should be more specific information submitted but provide no real basis as to why this should be considered a serious or significant error.

The Standards for Felling and Reforestation do not explicitly require the identification of flood risk and the DAFM recorded that they were aware of the CFRAM model and included a map with that data in the screening undertaken and recorded. There are a number of conditions attached to the licence that relate to water protection measures in addition to the requirement to adhere to the Standards for Felling and Reforestation. The grounds claim that there were hedgerows on site prior to afforestation but does not evidence the current presence of hedgerows. There are provisions in the Standards for Felling and Reforestation that address hedgerows. The licence was granted with a condition that all broadleaf trees and scrub that exist on site are to be retained.

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 these grounds.

Good Forestry Practice

The grounds contend that there was a duty to ensure works are consistent with good forestry practice and include a definition of good forestry practice that is attributed to the Forestry Act 2014 and refer to the fact that the site is windblown. The grounds further contend that there are a number of site factors that evidence material risk. The DAFM submit that the species selected is well adapted to Irish conditions and provides a number of benefits, that Storm Éowyn was an extreme weather event and that damage was unavoidable, that the DAFM's Forestry Standards Manual sets out the agreed procedures in relation to power lines and the role of the ESB, that the DAFM has in place a series of checks and balances in relation to species, habitats and water quality and that the granting of a felling licence does not exempt the holder from meeting other legal requirements, that the lands are not located within a conservation area of within areas associated with specific species identified by the DAFM, there are setbacks included, that pesticide use in Ireland is regulated, that the County Council did not refer to adverse impacts and that the DAFM had sufficient information to assess the replanting of the lands.

The licence decision before the FAC is for the felling of trees as provided for in the Forestry Act 2014 and the Forestry Regulations 2017. The FAC reviewed the definition of 'Good Forestry Practice' provided in the grounds and found that the definition, as quoted, is provided in Part 10 Article 32 the Forestry Act 2014 and that this is specified to be in the context of compensation for the refusal of a felling licence and for the purposes of the related section of the Act and is not provided as a definition for the purposes of the Act as a whole.

The Forestry Act 2014 provides for the Minister to produce and implement guidelines, codes of practice and standards for good forest practice and, as referred to in the statement from the DAFM, a number of such documents have been produced, including the Standards for Felling and Reforestation (DAFM, 2019). The Forestry Regulations 2017 also require the Minister to have regard to such documents in making decisions on licence applications. The Minister has conditioned the licence on compliance with the

Standards for Felling and Reforestation (DAFM, 2019) amongst other conditions. The FAC does not consider that the decision that was made was not in keeping with the Standards for Felling and Reforestation nor the Felling and Reforestation Policy (DAFM, 2017) documents published by the DAFM.

Risk of damage by wind is a feature of forestry in Ireland and the occurrence of windthrow is related to a number of factors, some of which relate to the management of the site. An individual landowner can make decisions concerning site and forest management, including thinning and drainage, that can influence the risk of wind damage. As noted by the DAFM, Storm Éowyn was an unusual event and caused substantial damage in many parts of the country. The DAFM recorded the position that the replanting species were silviculturally and environmentally suitable for the site. There are a number of setbacks proposed in the application and conditioned as part of the licencing process. As noted by the DAFM, the ESB is empowered to clear vegetation around electricity lines under separate legislation. The FAC considers that broad issues related to national policy do not fall within its remit to determine. There is no record of the land being crossed by electricity cables.

In relation to protected species, the granting of the licence does not remove any legal obligations on the Applicant or their agents unless such is provided for and the provisions of the relevant wildlife legislation is a matter for the relevant Minister. The grounds provide no basis as to how the activities as licenced would have a significant impact on any species or habitat. The regulation of pesticide use is provided for in legislation in Ireland.

In relation to the submission from the County Council, the decision under appeal to the FAC is in relation to an application for a tree felling licence. The decision was not made under planning legislation and the FAC does not operate under such legislation. The report referenced in the grounds relates to a landscape assessment of future commercial forestry. The submission was noted on the record and the licence conditions require contact to be made with the County Council prior to harvesting commencing. The application identifies access to the public road and the planned forest road on which timber would be hauled to the public road. As noted previously the FAC considered the application to reflect the information required under the Standards for Felling and Reforestation. The FAC considers that the management of the public road network itself, including the imposition of restrictions on the use of the public road network, falls to the appropriate roads authorities such as the local authority. The licence application that was made is for the felling of trees and relates to the provisions of the Forestry Act 2014 and the Forestry Regulations 2017 and is of a standard nature in the context of commercial forestry in Ireland.

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 these grounds.

Birds Directive

In relation to the grounds contending that the Minister had erred in relation to Article 5 of the Birds Directive (2009/147/EC), the FAC noted that the grounds made no reference to any specific bird species

or how the purported threshold they identify was met in this instance. The DAFM described the processing of applications and how this includes a number of checks and balances in relation to wildlife including screenings and consultations. It is further submitted that,

> *"...the granting of a felling licence does not exempt the holder from meeting and legal requirements set out Wildlife Acts of 1973-2010, that these species are not impacted by the proposed forestry operations associated with this licence."*

The forest in this instance was a young, semi-mature plantation of coniferous species which would not be considered an especially valuable or unusual habitat. Furthermore, the forest is described as being almost entirely windblown and would appear from the Appellant's description to be effectively felled already. It is not located in a Special Protection Area or any other conservation area and the DAFM completed an Appropriate Assessment screening of the application. Furthermore, there are conditions on the licence that existing broadleaf trees and scrub on site are to be retained. The FAC considered that the grounds are, in the main, generic in nature and do not provide a basis as to how the works as licenced might result in a significant impact on any bird species. The Appellant does not claim to have any environmental expertise or to have engaged any such individual in the preparation of the appeal.

The licence was granted following application under the Forestry Act 2014 and the Forestry Regulations 2017. The FAC would understand that the granting of the felling licence does not remove any obligations on the licence holder or their agents to adhere to other legislative requirements. Article 5 is transposed through the wildlife and habitats legislation and the FAC would not consider its remit to extend to making determination on whether Ireland has correctly transposed an EU Directive into domestic wildlife legislation.

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 these grounds.

Habitats Directive

The grounds contend that the Minister erred in relation to a number of provisions of the EU Habitats Directive. The grounds are contested by the DAFM which refers to the processing of the application and the screening undertaken.

In relation to the AA screening the Appellant contends that screening determination was "AA NOT REQUIRED". However, this is not the case, the screening documents the European sites considered alongside their interests and provides reasons for the screening conclusions which is,

> *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 there is no*

likelihood of the felling and reforestation project proposed under TFL01174825 having any significant effect, either individually or in combination with other plans or projects, on any of the following European site(s), for the reasons set out in Part A: Screening Report:

- *Boleybrack Mountain SAC IE0002032.*
- *Lough Gill SAC IE0001976.*
- *Cuilcagh - Anierin Uplands SAC IE0000584.*
- *Lough Forbes Complex SAC IE0001818.*

As such, the project does not advance to the appropriate assessment stage in relation to these European Sites.

The grounds then go on to make a number of claims regarding the content of the screening process. Under the provisions of the Forestry Regulations 2017, the Minister is required to undertake a screening for Appropriate Assessment in relation to all such applications irrespective of their nature and scale.

The FAC would consider the proximity of the forest to a European site to be a key consideration of the screening exercise and that an examination of potential pathways of significant effects is a reasonable and indeed a required matter for the Minister to consider in such a process. The forest is not located within or proximate to a European site and is a considerable distance from any such site. The FAC does not agree with the Appellant's position that there was a factual error in relation to the reference to a "*direct upstream connection*" as the general area in which the forest is located drains southwards to Lough Allen as shown in the mapping and continues in a southerly direction and does not drain to Boleybrack Mountain SAC or Cuilcaigh-Anierin Uplands SAC. It is therefore correct to state that the forest area is not upstream of those SACs and this is a valid consideration. The grounds make a number of general claims in relation to the process but these are unsubstantiated and there is no reason to determine that the DAFM did not consider the application and the content of the screening process as recorded. In relation to Regulation 42(16), the DAFM record a conclusion related to the content of that Regulation but specify that this is for the purposes of the Regulation. The conclusion as recorded and repeated previously in this determination is the correct test for an Appropriate Assessment screening. The FAC was satisfied that the screening for Appropriate Assessment undertaken by the DAFM was undertaken correctly.

In relation to the general claims regarding Article 12 of the EU Habitats Directive, the FAC again noted that the claims are largely generic in nature and contain no specific claims as to how the tree felling as licenced might impact on any species or habitat. As previously noted the forest is a semi-mature coniferous plantation which has been subject to windblow and, in addition, the licence has been subject to a number of conditions including adherence with the Standards for Felling and Reforestation. Article 12 of the EU Habitats Directive is transposed in Ireland through the wildlife legislation and as previously stated the FAC would understand that the granting of the tree felling licence does not remove any obligations on the licence holder or their agent unless such is provided for and that determining whether Ireland has correctly transposed the EU Habitats Directive does not fall within the remit of the FAC.

While the Appellant has claimed that there are bats in the area, the Appellant has not provided a basis as to how the proposal might significantly impact any species. Multiple bat species are common across much of Ireland. The application does not include works on areas considered of high value to bats such as old buildings, caves or old, native trees. The proposal does not include works on a watercourse or in habitats valued by otters, as noted in the submission from the DAFM, and there are conditions related to setbacks and the protection of water. The proposal is for the felling of a young/semi-mature commercial plantation that has been extensively windblown. The Appellant does not claim to have any environmental expertise or to have engaged any such individual in the preparation of the appeal.

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 these grounds.

EIA Directive

The grounds go on to contend that there is no evidence on the file of any EIA and EIA screening for the afforestation of the site in 2003 and that a screening must be undertaken now. As previously noted the Forestry Regulations 2017 do not provide for the Minister to conduct a screening for Environmental Impact Assessment or Environmental Impact Assessment in relation to tree felling applications. Making a determination on whether the Minister was required to provide for such powers in the Forestry Regulations does not fall within the remit of the FAC. Forestry is not a class of development under the Annexes of the EIA Directive and is a broad term. Annex II of the EU EIA Directive includes "Initial afforestation and deforestation for the purposes of conversion to another type of land use" and the application did not relate to such a project. Neither does it correspond to a change in the afforestation of the land, periodic tree felling is a standard operation in commercial forestry and is conducted within the same land use type. The grounds provide no basis and no evidence to conclude that the initial afforestation of the lands was conducted in 2003 or that the afforestation was regulatorily deficient or that significant effects on the environment have arisen since the afforestation of the lands. The Appellant repeats a number of concerns in relation to this ground including in relation to flood risk and the views of the local authority which are noted in the record of the decision. The use of pesticides in Ireland is regulated, as noted in the DAFM submission and subject to controls.

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 these grounds.

Water Framework Directive

The appeal further claims that compliance with the Water Framework Directive cannot be assured and proceeds to raise a number of queries and claims. The FAC considered that some of the matters raised had been raised under other grounds. The FAC further considered that the Appellant had failed to provide a basis as to how the threshold that they identify in C431-13 had been met in this instance. As previously noted the DAFM noted flood risk data in their screening. The Harvest Plan does not identify silt traps but there are no relevant watercourses marked on the lands and so such measures would not be required.

The licence conditions require adherence to the Standards for Felling and Reforestation that would require the implementation of measures such as silt traps. It is noted that there would be a setback from the river to the west of the site but there is no proposal or requirement to establish a temporary bridging point to cross this river. The forest to be felled is located entirely to the east of this river and extraction and haulage would be easterly and on the proposed forest road that joins the public road.

The DAFM recorded the hydrology of the site and proximity to waterbodies in the AA screening document in addition to the status of the waterbodies. The DAFM also recorded a number of conclusions that the proposal would not impact on water quality and attached a number of conditions to the licence related to the protection of water. The proposed felling is of a relatively small scale and is required to adhere to the conditions attached to the licence. The grounds make a number of claims and queries but the FAC found them to be general and speculative in nature.

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 these grounds.

County Development Plan

In relation to the Leitrim County Development Plan (CDP), the remit of the FAC is to determine appeals against certain decisions of the Minister for Agriculture, Food and the Marine made under the Forestry Regulations 2017 and the Forestry Act 2014. The FAC does not operate under planning legislation and the FAC cannot consider appeals made under planning legislation. The submission from the County Council is on the record and the licence refers to the fact that road users may be held liable for any damage and also requires the licence holder to contact the County Council prior to the commencement of harvesting operations.

The landscape document that was published as part of the CDP and referenced in the submission from the County Council relates to new planting and not the replanting of trees following felling. The Minister for Agriculture, Food and the Marine has responsibilities for forest policy under the Forestry Act 2014 and is the competent authority for issuing tree felling licences. The FAC considered that there was evidence in the record and the licence conditions that in making the licence decision regard was given to the submission of the County Council.

Structural Issues

The appeal goes on to make a number of claims of structural issues and submits that the decision is vitiated by structural illegality and procedural unfairness and makes a number of claims in relation to the appeals process. The remit of the FAC is to determine appeals against certain decisions of the Minister for Agriculture, Food and the Marine and an appeal to the FAC is not the correct forum to challenge the appeals process itself.

As regards appeal FAC099/2025, the FAC was satisfied that the appeal was conducted and determined fairly and in keeping with the requirements of the Agriculture Appeals Act 2001 and the Forestry Appeals

Committee Regulations 2020. The FAC had full regard and gave full consideration to all of the relevant material provided by the parties to the appeal and all of the relevant material was provided to each party. The Appellant made a submission in response to the Statement of the Minister and the FAC had regard to the submission.

In relation to the thresholds established under the Forestry Regulations 2017, no such thresholds have been established for tree felling licence applications and, as previously stated, the FAC considers that its remit does not extend to making determinations on the correctness of Ireland's transposition of an EU Directive. In relation to the broader use of pesticides by the forest industry, the grounds do not state what specific requirement they believe has been placed on the Minister. The DAFM recorded other plans and projects, both forestry and non-forestry, that were considered in relation to potential in-combination effects.

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 these grounds and matters raised

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 and the submission made by the Appellant. 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 on licence TFL01174825 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. The FAC is, therefore, affirming the decision of the Minister for Agriculture, Food and the Marine in relation to TFL01174825.

Yours sincerely,

Vincent Upton on Behalf of the Forestry Appeals Committee