



Mr. Peter J Barry

15th September 2026

Subject: Appeal FAC121/2025 regarding TFL01243625

Dear Mr. Barry,

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.

FAC Decision.

Having regard to the evidence before it, including the Department of Agriculture, Food, and the Marine (DAFM) record of the decision, the Statement of Fact (SoF) provided by the DAFM, all materials on file, the notice and grounds of appeal, in particular the following considerations, the FAC has decided to set aside and remit the decision of the Minister regarding licence TFL01243625.

Licence Decision.

Tree felling licence TFL01243625 is for the felling of trees on 8.77 hectares at Drumleague, Co. Leitrim as set out in the licence application.

The application for the licence was published on the Forestry Licence Viewer (FLV) on 17th September 2025. A decision approving the licence was issued on 5th December 2025 subject to a number of conditions including

Forestry Appeals Committee.

A sitting of the FAC was held remotely on the 16th of July 2026 at which appeal FAC121/2025 against the decision to grant licence TFL01243625 as dated 05/12/2025 was considered. The FAC members present were:

FAC Members:	Mr. Liam Ward (Deputy Chairperson), Mr. Vincent Upton, Mr. Iain Douglas.
Secretary to the FAC:	Ms. Ruth Kinehan.

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. The parties to the appeal were provided with the full grounds of appeal and the SoF.

Background.

The appeal relates to the decision of the Minister for Agriculture, Food and the Marine to grant a tree felling licence on 8.77 hectares. The application included operational and environmental information and

a series of maps. The application is divided into two plots with plot 1, 7.51 hectares, comprised of Norway spruce and plot 2, 1.27 hectares, comprised of sycamore. The application includes the clearfelling of the Norway spruce in 2026 and the repeated thinning of the sycamore over three interventions in 2026, 2030, and 2035. The application identifies that the clearfelled area would be replanted with native broadleaf species, primarily birch, goat willow and common alder. The application records that the lands do not lie within or proximate to any conservation area, recorded monument or high amenity area. The Harvest Plan submits that onsite supervision will be undertaken and signage will be erected, amongst other undertakings.

The maps submitted with the application show the lands to lie to the northwest of Leitrim village and located between the River Shannon which runs to the west and south and a canal to the east. A public road is located to the east of the lands. There are hedgerows on site which would be retained and a setback would be maintained from the watercourse. Silt traps would be employed in the relevant watercourses on site and access is located to the east to the public road across an existing crossing. The haulage route would be to the public road to the north using a small rigid truck.

The application was referred to Leitrim County Council which referred to the assessment undertaken for the County Development Plan and attached a report from the District Engineer which submitted that the Area Office will not permit haulage on the local public road network and that all haulage was to be completed via the adjacent canal.

The DAFM record an examination of the application in a document entitled "Project Description, Environmental and Social Considerations" and make a number of assessments and determine that the application was not required to be subject to Environmental Impact Assessment. The DAFM also conducted a screening for Appropriate Assessment in which likely significant effects on European sites are considered. The lands are not located within a European site and the closest European site is 9.7 km to the north east, Cuilcagh - Anierin Uplands SAC. In addition, three other European sites lie within 15km, Lough Arrow SAC (13.6 km to the west north west), Lough Arrow SPA (13.7 km to the west north west), and Lough Forbes Complex SAC (15km south east and hydrologically connected). Each site is considered in turn with its interests and objectives and reasons are provided for the screening conclusions. Other plans and projects considered in-combination with the proposal are also recorded. The screening concludes,

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 TFL01243625 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:

- *Cuilcagh - Anierin Uplands SAC IE0000584.*
- *Lough Arrow SAC IE0001673.*
- *Lough Arrow SPA IE0004050.*
- *Lough Forbes Complex SAC IE0001818.*

The licence was granted on 5th December 2025 subject to conditions including measures related to the protection of water quality and that the County Council and DAFM must be contacted prior to the commencement of harvesting operations.

Appeal.

There is one third party appeal against the granting of the licence and the full grounds of appeal have been provided to the parties. In brief summary the appeal submits that,

- As a preliminary matter, the licence was suspended within the appeal window to allow consultation with Waterways Ireland and there is uncertainty in relation to the position of the appeal should the licence be re-instated.
- The Appellant requests that the decision be set aside and remitted and requests an oral hearing.,
- There was inadequate public participation and ineffective notice in relation to Article 6(2) of the Aarhus Convention.,
- There was a breach of Regulation 10(4) of the Forestry Regulations and unlawful timing of the publication of key materials with reference to a number of documents.,
- There is reasonable doubt as to the lawfulness of the original consent. The lands were afforested circa 1995 and there is no evidence on the records that the original afforestation consent was screened for environmental impact assessment.,
- There are deficiencies in licence conditions and project documentation with reference to a number of operational features and windthrow.,
- The Appropriate Assessment screening is defective, it lacks a scientific basis and the in-combination assessment is also defective.,
- There was a failure to assess impacts on Annex IV species and Article 12 of the Habitats Directive and Strict Protection of Animal Species — Guidance for Public Authorities, 2021, NPWS are referenced.,
- There was a failure to provide a general system of protection for wild birds and failure to apply a precautionary curlew catchment approach and Article 5 of the Birds Directive is referenced. There are no seasonal restrictions and Irish law provides exemptions for forestry operations which creates a compliance gap. The project is within a recognised Curlew breeding catchment.,
- There was inadequate assessment of pollution pathways, overland flow and flood risk and reference is made to brash remaining on site, eutrophication and sedimentation, and the flood risk of the site.,
- The County Council refused use of L7381 to FLV01142825 and the proposed access does not conform to technical standards and would adversely impact road safety and public safety. The licence is inoperable. The Minister cannot rationally disregard the statutory submission of the competent roads authority without reasoned justification.,
- The Environmental Impact Assessment screening contains unsubstantiated assertions and factual errors.

The notice of appeal included a number of uncredited photographs and was accompanied by a flooding map and a petition.

Minister's Statement.

The DAFM submitted a SoF to the Forestry Appeals Committee dated 12/05/2026 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:
- The Department disagrees with the appellant's assertion that effective public participation was not provided. It is submitted the consultation process fully satisfies any obligations arising from Article 6(2) of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). DAFM procedures are outlined.,
 - The tests in relation to the availability of material prior to the taking of an appeal were met.,
 - It is not clear what specific environmental issues are being referred to and the grounds do not identify any significant effects on the environment that have occurred. The application does not involve a form of activity or project that falls within the Annexes of the EU EIA Directive.,
 - The application included sufficient information including on the maps provided to allow the Department to make a decision on the licence. Forest management practices can reduce the risk of windthrow but cannot anticipate storm damage.,
 - The DAFM undertook a detailed and thorough screening process and the DAFM Appropriate Assessment procedure is outlined. The DAFM is satisfied that the screening for Appropriate Assessment is compliant with Article 6(3) of the Habitat Directive.,
 - 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 forestry licence does not exempt a licence holder from fulfilling any other obligations or licencing requirement under the Wildlife legislation.,
 - The DAFM disagrees that its procedures are inconsistent with the Birds Directive and the ground is a general one. The DAFM did carry out a check for Curlew and the property was outside of a 1.5km buffer used to trigger mitigations for this species.,
 - DAFM procedures in relation to the protection of water quality are outlined. DAFM is satisfied that the conditions included in this licence will protect water quality.,
 - The DAFM took account of the County Council's concerns and have included a requirement to contact the Council in the licence conditions.,
 - The position of the DAFM is that the 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 in the EIA Directive.,
 - A site notice is erected in advance of works being undertaken and is not required at application stage as there is no change in land use. It is not clear what insufficient information is being referred to in the grounds. Re-wetting of forests on organic soils may increase emissions and make reaching statutory targets more difficult.

Considerations of the FAC.

At its sitting on the 16th of July 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, and the statement and document provided by the DAFM.

The FAC, having reviewed all the documentation and submissions considered that there was sufficient information to enable it to assess and determine the appeal without recourse to an oral hearing.

In relation to the Appellant's preliminary observation, the FAC understand that the licence decision was suspended and not revoked and that the licence of 5th December 2025 is still in place but remains suspended. The DAFM submitted that the application was referred to Waterways Ireland after the decision and that no submission was made. The Appellant was provided with the statement made by the DAFM and made no further submission. As Waterways Ireland made no submission and the licence was not altered in any way following the suspension the FAC did not consider that there was any basis to conclude that any party had been disadvantaged by the approach adopted by the DAFM.

In relation to the grounds of appeal the FAC considered, in the first instance, the grounds that there has been inadequate public participation and ineffective notice with reference to Article 6 (2) of the Aarhus Convention and fair procedures. It is submitted that the DAFM relied on publication on its website as the sole means of public notification and that this does not constitute effective notice within the meaning of Article 6(2). The grounds contend that this has been criticised by the Aarhus Convention Compliance Committee (ACCC/C/2012/71) and has been addressed by the Irish Court of Appeal in *McCaffrey v Minister for Agriculture, Food and the Marine* [2017] IECA 247. It is further submitted that Regulation 10 of the Forestry Regulations does not distinguish between licence types and that the requirement for site notices in afforestation and forest road applications, but not for felling licences, is inconsistent and unexplained.

The DAFM contest the grounds and submit that any obligations that might arise under the Aarhus Convention are met through its procedures which are outlined including the public consultation process and the availability of the Forestry Licence Viewer (FLV). It is further submitted that the erection of a site notice is required when works are being undertaken. The DAFM position in response to the grounds that relate to Environmental Impact Assessment is that the application does not comprise a development for the purposes of the EU EIA Directive.

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 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 not included in the identified classes of projects.

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 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 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 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 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.

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 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.

The grounds refer to Regulation 10 of the Forestry Regulations 2017 and submit that it does not distinguish between licence types. However, that regulation addresses publication of a notice by the Minister, which was undertaken in this instance. Regulation 11 addresses site notices to be erected by a licence applicant in relation to afforestation and forest road works. It is evident in the grounds that the Appellant is seeking to challenge the Forestry Regulations 2017 itself and Ireland's, and the EU's, transposition of the Aarhus Convention. The grounds are generic in nature and contend that the decision is in breach of international and EU law but the FAC does not consider that the appeals process is the correct forum in which to challenge Ireland's and, indeed, the EU's transposition of a convention of the UNECE.

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.

The grounds go on to allege a breach of Regulation 10(4) and "unlawful timing of publication of key material". The grounds refer to a number of documents that are described as having been published after the period of public consultation had elapsed and allege that this deprived the public of a "lawful opportunity to make submissions". The DAFM contest the grounds and submit that the relevant tests were met.

The FAC would understand that Regulation 10(4) is to be read in the context of the section as a whole and relates to the information contained in the application. The regulation does provide discretion for the Minister to publish information and to extend the period of public consultation.

The documents listed in the grounds of appeal are almost entirely generated by the DAFM or submissions from prescribed bodies. Such documents do not form part of the application and were not submitted as part of the application and there is no reason as to why the public consultation period would be extended or reopened to allow for public consultation on these documents.

However, included in the list of documents is a "Haulage Route Map", which comprised a letter describing the haulage route and an accompanying map. Under the DAFM Felling and Reforestation Standards, 2019, a Harvest Plan must describe the haulage route and the standards further state that, where submitted, such plans form part of the application. The forestry legislation provides that the Minister is entitled to set such standards and must have regard to such standards when making decisions on licence applications. The FAC determined that in that context the "Haulage Route Map" did form part of the application and should have been published during the public consultation period or, if required, the period should have been extended in keeping with Regulation 10(4). The FAC was satisfied that the failure to publish this part of the application during a consultation period constituted a serious error in the making of the decision.

The grounds allege that there is reasonable doubt as to the lawfulness of the original consent. It is submitted that the lands were afforested circa 1995 and that there is no evidence on record that the original afforestation consent was screened for environmental impact assessment as required by EU law and that in circumstances of reasonable doubt as to the legality of the original consent, the competent authority must be in a position to demonstrate compliance. The DAFM in response submitted that it was unclear as to what environmental issues are being referred to in the grounds and no significant effects on the environment have been identified. It is further submitted that the DAFM consider that that the appeal should be limited to the licence under appeal and not past decisions. The position of the DAFM is that felling and replanting an already established plantation forest does not involve an activity or project that falls within the specified categories of projects subject to the requirements of the EIA Directive.

The grounds make a number of claims but do not substantiate them. The FAC noted that the Appellant suggested that they may supplement their grounds but no further submission was made. The FAC considered that the grounds provided no basis to consider that the forest was in some way legally deficient or how the felling licence was issued in error in relation to the matters raised. The Appellant does not make any claim that a significant effect on the environment arose as a result of the afforestation or any evidence that the land was afforested when indicated. The lands are not located in a designated area and are situated in a managed landscape primarily comprised of agricultural land and forest. The Appellant has submitted that the land was in agricultural use prior to its afforestation. The decision under appeal is in relation to tree felling licence TFL01243625 and the FAC did not consider that the Minister was required to undertake any additional actions that related to the afforestation of the lands to process the felling licence.

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.

The grounds contend that there are deficiencies in licence conditions and project documentation and reference windthrow, setbacks, stacking and operational discretion. The DAFM submit that the Applicant had submitted sufficient information to allow the issuing of the decision and that the appeal does not state clearly on what legal basis the claims of deficiency are made. It is submitted that management practices can reduce the risk of windthrow but storm damage cannot be anticipated and management decisions are best made on the ground.

The FAC considered that these grounds were speculative and suggested that the Appellant had not fully engaged with the application and decision. It is submitted that there are no clear, enforceable setbacks stated for relevant watercourses and water-related hotspots but the application clearly identifies water features and states the associated setbacks, which are reflective of the Standards for Felling and Reforestation (DAFM, 2019) and compliance with these standards are further conditioned on the licence. The grounds later claim that certain "key mitigation measures" are not mapped which is also not correct. The grounds refer to "barriers" and "biodiversity measures" not being mapped but the mapping clearly identifies silt traps and hedgerows and setbacks. In relation to "drain checks", the Harvest Plan states that silt traps will be monitored and as noted these are mapped alongside water features. Timber extraction is described both through the mapping and text submitted with the application, this includes a description of stacking, and compliance with the Standards for Felling and Reforestation is conditioned as noted.

The grounds further submit that no mitigation for windthrow risk is translated into site-specific conditions. The proposal is for the removal of the existing commercial woodland followed by the planting of native broadleaf species. The species proposed for the replanting are those associated with alluvial woodland and would not, in general, reach the heights of a commercial conifer plantation nor be managed in the same manner, as is referenced in the application. While all tree species can be damaged by wind, the proposal is not likely to be impacted in the same way as the existing plantation and the consequences would be fundamentally different.

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.

The grounds contend that the Appropriate Assessment screening is defective and claims that no scientific basis for the conclusion was provided and that the consideration of other plans and projects was also defective. The DAFM contest the grounds and provided an overview of its approach to AA screening. It is submitted that the DAFM employed a source – pathway – receptor model and that where no pathway for effects is identified, it could be lawfully concluded that there were no likely significant effects. It is further submitted that the screening conclusions were reached following a structured, site-specific assessment consistent with Article 6(3) of the Habitats Directive.

The FAC noted that the grounds do not identify a specific European site or effects that are of concern to the Appellant. The specific reasoning identified in the grounds relates to Lough Forbes Complex SAC IE0001818. The grounds refer to the content of the screening dated 03/11/2025 and the DAFM confirmed that this was the screening relied upon in making the decision, this predated the licence decision which issued on 19/12/2025. The screening includes a number of maps describing the site and its surrounds and its proximity to European sites. Each site was considered in turn with its interests and conservation objectives. The mapping includes the hydrology of the general area with water flowing to the southwest before continuing southerly through a network of rivers and lakes before reaching Lough Forbes Complex SAC. The proposal is for the felling of trees across 8.77 hectares which is an activity which is limited in space and time by its nature.

Under the Forestry Regulations 2017, the Minister is required to undertake a screening for all such applications irrespective of their scale or location. It is clear from the facts of the case that the proposal would not result in a significant effect on a European site and the grounds provide no basis to consider otherwise. The reasoning provided is clear and based on scientific reasoning and was prepared by

technical staff in the DAFM. The Appellant does not identify any environmental concerns nor claim to have any environmental expertise nor to have engaged such an individual.

The sub-basin has clearly not been chosen arbitrarily, it is the sub-basin in which the proposed tree felling is located and other plans and projects that are proximate to an activity are clearly more likely to contribute to effects in-combination with the activity. The grounds make a number of claims in relation to the in-combination consideration of the DAFM but do not identify any relevant plan or project that was not considered nor any basis to conclude that significant effects on a European site are likely to occur.

Based on the record, the DAFM completed a screening considering the likely significant effects on European sites of the proposed felling itself and in-combination with other plans and projects and provided reasons. The conclusions are clear and unambiguous and the FAC considered the screening to be correct in its overall findings. However, while the DAFM mapped the location of the proposal relative to European sites it recorded that the proposal is c.15km from Lough Forbes Complex SAC. This is clearly incorrect as that SAC is considerably further away in direct distance and at a very significant distance in terms of hydrological distance. In the context of a new decision being made for reasons outlined elsewhere in this letter, the DAFM should undertake a new screening for Appropriate Assessment and ensure that the correct distance to European sites is recorded.

The grounds contend that there was a failure to assess impacts on Annex IV species and refers to Article 12 of the Habitats Directive and an NPWS document. The DAFM provides an overview of its assessment process and contest the grounds and further submit that *"the granting of the licence by the Department does not serve to exempt the licensee from fulfilling any other obligations or licensing requirements arising from the main pillars of wildlife legislation in Ireland, i.e., the Wildlife Acts, 1976 and 2000, as amended."*

The proposal is for the felling of trees in a plantation of exotic species and is outside of any designated area. The Appellant has submitted that the forest has been subject to damage by wind and that areas of the forest have already been felled by wind. There are protections in place for hedgerows and watercourses. The grounds make a number of general claims but provide no reasons as to how the proposal as licenced might result in an adverse impact on any protected species. The FAC would also understand that the granting of a tree felling licence does not remove any legal protections or obligations on the landowner or their agents that are provided for under other legislation.

In relation to the document referred to in the grounds, as the title suggests and as stated in the contents, that document provides guidance to public authorities in relation to development/works undertaken by or on their behalf, which does not describe the circumstances under appeal. This document also clarifies that the granting of a consent or permission does not remove legal obligations on the applicant.

More generally the proposal is for the removal of the existing commercial plantation and the establishment of native tree species associated with alluvial woodland, a protected habitat. There are clear potential benefits to biodiversity, including bats and otters, from the overall proposal set out in the application.

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.

The grounds contend that there was a failure to provide a general system of protection for wild birds and failure to apply a precautionary curlew catchment approach and references Article 5 of the Birds Directive. It is submitted that Irish law provides exemptions for forestry operations which creates a compliance gap and that the project area is within a recognised Curlew (*Numenius arquata*) breeding catchment. The DAFM contest the grounds and contend that they are a challenge to broader policies and procedures and that the grounds do not provide a basis to conclude that the proposal would have an impact on bird species. The DAFM go on to state that again that *"the granting of the licence by the Department does not serve to exempt the licensee from fulfilling any other obligations or licensing requirements arising from the main pillars of wildlife legislation in Ireland, i.e., the Wildlife Acts, 1976 and 2000, as amended."* It is further submitted that the DAFM did carry out a check for Curlew and established that the property was outside of the 1.5km buffer used to trigger mitigations for the species.

The FAC considered that these grounds were in the main seeking to challenge Ireland's transposition of EU law and the Appellant's perceived "compliance gap" in the wildlife legislation. An appeal to the FAC is not the correct forum for the Appellant to pursue such a challenge as making such a determination does not fall within the remit of the FAC.

The grounds make a general unreferenced claim that the lands are located within a *"recognised Curlew (Numenius arquata) breeding catchment"*. The DAFM submitted that they had undertaken its own check and that the forest is not located within the 1.5km buffer which is employed around nesting sites. The Appellant did not contest the DAFM's evidence or provide any evidence that any protected species was present on site. Furthermore, a semi-mature/mature plantation forest would not be a habitat associated with this species and would not generally be considered a rare or valuable habitat as noted by the DAFM.

As previously noted the FAC would also understand that the granting of a tree felling licence does not remove any legal protections or obligations on the landowner or their agents that are provided for under other legislation. The overall proposal involves the felling of plantation forest and the planting of native tree species associated with alluvial woodland and would likely provide benefits to biodiversity and bird species.

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.

The grounds contend that there was inadequate assessment of pollution pathways, overland flow and flood risk and make a number of claims in relation to potential impacts on water quality. The DAFM contest the grounds and submit that all felling licences must comply with the Standards for Felling and Reforestation (DAFM, 2019) and that the DAFM is satisfied that the conditions included in the licence will protect water quality during harvesting operations and that the avoidance of accumulation of brash in and adjacent to aquatic zones was accounted for in the licence conditions.

The FAC considered the grounds to be of a general and speculative nature. There are a number of references to general sources, e.g. catchments.ie, US Forest Service, but no actual scientific references and none that are specific to the site in question. The grounds suggest that the Appellant has not fully engaged with the record of the decision. For example, it is submitted that there are no mapped silt traps on the Harvest Plan but this is factually incorrect as such measures are clearly outlined and mapped in the application. Flood risk mapping was specifically recorded in the AA screening undertaken by the DAFM and the DAFM was clearly aware of this fact. The Applicant's choice of replanting species would also

demonstrate an awareness of the hydrology of the site as the species are associated with alluvial woodland which is associated with intermittent flooding. While not providing a specific reference, the grounds refer to catchments.ie as a source but that website records that forestry is a relatively low source of nitrogen and phosphorous and that such effects, where they occur, are short-lived. While it is well-known that the breakdown of vegetation, including forestry brash, results in the release of nutrients, research in the forestry area, on eutrophication and siltation, has concentrated in upland areas with large scale forestry operations on sloped sites. One of the recognised methods to address the potential release of nutrients is through establishing species to take up the released nutrients. In this instance the Applicant would replant with fast growing native broadleaf species which would rapidly stabilise the site. More fundamentally however, the site is neutral and of a relatively small scale and set back and separated from aquatic zones by existing vegetation and the Applicant will employ setbacks and other measures to address the protection of water quality. Alluvial woodlands of the type that the Applicant would establish are associated with a range of benefits including to water quality and biodiversity.

The FAC considered that the Appellant had not provided a basis to conclude that the decision was made in error. 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.

The grounds submit that there was a prior refusal from the County Council and that there was a failure to have proper regard to the roads authority, access, public safety and recreational use. The grounds refer to the submission from the County Council, the use of the area for recreation, the impact on amenity and safety from heavy forestry haulage for an extended period and a suggestion that Waterways Ireland has refused the use of a pedestrian drawbridge. The DAFM submit that the County Council approved the haulage route, that the public road will be used for part of the haulage, that there are conditions on the licence to contact the County Council prior to the commencement of harvest operations and that Waterways Ireland did not make a submission.

The FAC does not agree with the DAFM suggestion that the County Council approved the haulage route and the FAC would accept the Appellant's position that the County Council had sought to restrict the use of the public road adjacent to the property. The Council had sought the haulage to occur via the canal, while the Applicant identified that they would be using the public road. However, in any case, the FAC was satisfied on the basis of the submission from the DAFM that due regard was not given to the submission from the County Council as the FAC considers that the submission was misinterpreted. As previously noted the decision is being set aside and remitted and in that context the DAFM should ensure that the submission from the County Council is considered properly.

In relation to the grounds of appeal, the FAC does not understand the County Council to be empowered to prohibit the use of the public road by an individual or a specific sector. Accordingly, it would not be appropriate for the DAFM to place restrictions on an individual in the manner requested by the Council. The application that was before the Minister was in relation to the felling of trees. The Council is entitled to set certain general restrictions, such as weight restrictions, and all road users would be required to adhere with the restrictions. The granting of the tree felling licence would not remove such an obligation on a road user. The Applicant has already stated that they would employ a small rigid truck in the haulage.

The Application also noted recreational use in the area and has undertaken to erect safety signage. This is reflective of the provisions of the Felling and Reforestation Standards. The grounds refer to the use of the road for extended periods for heavy forestry haulage. In addition to the Applicant submitting that they

would use a small rigid truck, the felling site is of a relatively small scale and the felling and haulage activities would be limited in time by its nature. After replanting the site would be comprised of mixed species native woodland where large scale harvesting would not occur as noted by the Applicant. The Appellant claims to have a private communication with Waterways Ireland but did not provide any evidence of this and that body did not make a submission on the application when invited to do so. In any case, individuals have an entitlement to use the public road and the FAC would understand that the granting of the licence does not provide any additional rights to use the public road or other infrastructure and would not remove any liability to an individual that causes damage to such.

In relation to the grounds alleging that a defective Environmental Impact Assessment Screening, the FAC understands this to relate to the document entitled "Project Description, Environmental and Social Considerations". As previously described the FAC does not consider that the proposal falls within the classes of plan and projects included in the Annexes of the EIA Directive and the Forestry Regulations 2017 do not provide for the Minister to undertake an EIA in relation to tree felling applications. Nonetheless, the DAFM have adopted the procedure of considering tree felling applications across a range of criteria and determined, in this instance, that an EIA was not required.

The FAC found the grounds to be of a general nature and primarily related to matters which were raised previously in the appeal and already addressed in this letter. However, in relation to the consideration of recreational use, the DAFM record that proposed area would not impact on an area commonly used by the general public for recreation. The FAC would consider that this is contradicted by the application which identifies recreational use in the area and has undertaken to erect safety signage. Furthermore, the document records a reliance on "Forestry and Water Quality Guidelines" but compliance on these guidelines are not conditioned on the licence. The FAC was satisfied that this constituted a serious error such that the DAFM should complete its "Project Description, Environmental and Social Considerations" procedure again.

The grounds were accompanied by an OPW Flood Risk Map and a signed document which include a number of matters raised in the grounds. The FAC considered the matters raised to have been addressed other than the suggestion that the land should be deforested and converted to water meadow and that the decision did not comply with the Government's own climate action and targets.

The FAC found the position communicated in the appeal to be contradictory, the appeal seeks to have the lands permanently deforested and converted to water meadow, an agricultural use. Such an activity would result in accountable emissions in relation to Ireland's 2030 emission reduction targets and could not be considered to be in keeping with climate action targets. The proposal of the Applicant is that the existing commercial conifer plantation be removed and replaced with a native woodland comprised of native broadleaf species associated with alluvial woodland. Alluvial woodland can be classified as an Annex I habitat. The use of fast growing native species as proposed would mean that it would be unlikely that the proposal would result in accountable emissions and would ensure the ongoing sequestration of the forest. Furthermore, the FAC would not understand the Minister to be empowered to compel the landowner to deforest the lands and manage them in a specific way as sought in 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.

Conclusion.

In considering appeal FAC121/2025, the FAC had regard to the record of the decision, the Notice and Grounds of appeal, and the Statement of Fact 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 on licence TFL01243625 was made. The FAC is satisfied that a serious or significant error or a series of errors was made in the process of making of the decision, the FAC is therefore setting aside and remitting the decision of the Minister for Agriculture, Food and Marine to address the errors identified by the FAC earlier in this letter and to ensure that before a new decision is made a new period of public consultation of the full application is undertaken and that a new AA screening and "Project Description, Environmental and Social Considerations" is completed. In making a new decision the Minister must have regard to the submissions of prescribed bodies.

Yours sincerely,



On Behalf of the Forestry Appeals Committee

