



Coillte

18th May 2026

Subject: Appeal FAC018/2023 regarding licence decision CN92661

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 (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. 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.

Hearing

Appeal FAC018/2023 was considered by a division of the FAC at a hearing held remotely on 23rd March 2026. In attendance:

FAC Members: Mr. Donal Maguire (Deputy Chairperson), Mr. Derek Daly & Mr. Vincent Upton.

Secretary to the FAC: Ms. Aedin Doran.

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

Decision

Having regard to the 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 and, in particular, the considerations described in this letter, the FAC has decided to allow the appeal and set aside the decision of the Minister regarding licence CN92661.

Background

The appeal relates to the decision of the Minister for Agriculture, Food and the Marine to grant a licence for forest road works at Barraglanna, Co. Mayo. The application was accompanied by operational and environmental information, including maps. The road would comprise 620 metres, including a turning area, and would be constructed using the build on top method. The road would be located at the end of an existing section of forest road, where a bellmouth would be constructed, and the existing forest road

connects to a network of minor public roads. The road would serve a forest of 9.14 hectares. The site compound and storage area would be located at the existing forest road and the road would cross existing plantation and open spaces. The application indicates that there are no aquatic zones or relevant watercourses on site but that aquatic zones are located to the east, west and north of the proposal. The application describes the characteristics of the lands and notes their location in relation to designated areas. It is submitted that no further reports are required and no Environmental Impact Statement was submitted.

A copy of a site notice dated 13th March 2023 was submitted which states that the works would not include the creation of a new entrance or the widening of an existing entrance from the public road. There is also a photo of the site notice erected and the mapping indicates that the site notice was located at a minor public road close to a national road.

The application was referred to Mayo County Council, An Taisce, the NPWS/Department of Housing, Local Government and Heritage. An Taisce submitted that the application should be subject to Appropriate Assessment, the lands comprise High Nature Value Farmland and should be subject to an ecological assessment with reference to EU Regulation 807/2014, the area is sensitive and native woodland or no replanting should be considered and that the felling and replanting should be assessed with the road construction. The NPWS had no comment to make on the application and submitted a document entitled *Appendix 1: General observations from the National Parks and Wildlife Service (NPWS) in relation to forestry application referrals.*

An Ecologist prepared an Ecology Report for the DAFM on 21st June 2023 which described the proposal and the environmentally sensitivities of the area and recommended a number of conditions be attached in relation to the protection of water quality.

An Ecologist also prepared an Appropriate Assessment screening determination dated 27th June 2023. This described the operations and lands and the proximity and possible pathways to European sites. Six European sites are identified within 15km of the proposal, Mweelrea/Sheeffry/Erriff Complex SAC IE0001932, Clew Bay Complex SAC IE0001482, Brackloon Woods SAC IE0000471, Oldhead Wood SAC IE0000532, West Connacht Coast SAC IE0002998, and Lough Cahasy, Lough Baun and Roonah Lough SAC IE0001529. The proposal is not located within a European site and the closest such site is Mweelrea/Sheeffry/Erriff Complex SAC IE0001932 which is 1.8 kilometres away. Each site is considered in turn with its objectives and interests and reasons are provided for the screening conclusion. 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 possibility of the forest roading (CN92661) having any significant effect, either individually or in combination with other plans or projects, on any of the European site(s) listed below, for the reasons set out in the Screening Report.

➤ *Mweelrea/Sheeffry/Erriff Complex SAC IE0001932*

➤ *Clew Bay Complex SAC IE0001482*

➤ *Brackloon Woods SAC IE0000471*

➤ *Oldhead Wood SAC IE0000532*

➤ *West Connacht Coast SAC IE0002998*

➤ *Lough Cahasy, Lough Baun and Roonah Lough SAC IE0001529*

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

The proposal was also considered across a range of criteria and it was concluded that it was not required to be subject to the EIA process.

The licence was granted subject to conditions on 12th July 2023.

Appeal

There was one third party appeal made against the granting and the full grounds of appeal have been provided to the parties. In brief summary the grounds submit that,

- There was a failure to provide details of expected emission contrary to Article 4(4) of the EIA Directive. The grounds make reference to Article 4, Annex IIA(3) and recital 3 of the Directive and submits that the construction of the road will result in emissions that are not submitted or assessed.,
- Licence conditions lack clarity and cannot be understood by the public. The grammatical structure of a condition leaves uncertainty and it is not clear whether all documents identified may be amended by circulars and there are no consolidated documents with all amendments and the condition cannot be understood.,
- The site notice was not positioned consistently with article 11 (1) of the Forestry Regulations.,
- There is in excess of 2000 metres of forest road in the area of forest already and any additional forest road requires an EIA.

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 provided a Statement of Fact (SOF) providing an overview of the decision and responding to the appeal, a full copy of which was provided to the parties and considered by the FAC. As the parties were advised, the FAC relied on the record of the decision as provided by the Minister on the online Forestry Licence viewer (FLV). The statement submitted that the decision was issued in accordance with DAFM procedures, SI 191 of 2027 and the Forestry Act 2014, as amended, and sought to contest the grounds. Specifically in relation to the grounds of appeal, the DAFM submitted that,

- Under the EIA Directive emissions typically include the release of pollutants into air, water and soil. The development is for the construction of an unbounded road that will remain permeable and will not involve potential pollutants associated with bounded roads and related emissions. Given the small-scale nature of the works, and the low-intensity intervention into the landscape no significant emissions to air, water or soil are anticipated and in the context of the Directive are considered negligible.,
- The ground in relation to the lack of clarity in conditions is contested. It is submitted that Condition 8 requires adherence with technical standards and that forest roads are undertaken and supervised by professionals and not lay people.,
- The site notice was located on the public road and in a highly visible area and conformed to the requirements.,
- The grounds in relation to cumulative impacts are an opinion and no evidence has been submitted that a sub-threshold EIA is required. The EIA assessment was undertaken by a Forestry Inspector who made a professional judgement that an EIA was not warranted in this instance.

Further submissions

The Notice of appeal and statement were circulated to the parties and the Appellant made a further submission contesting the DAFM statement and restating its position. No other submissions were received by the FAC.

Discussion

The FAC considered in the first instance the grounds that the site notice was not erected in keeping with the requirements of the Forestry Regulations 2017. The DAFM submitted that the site notice was located in a suitable highly trafficked area. The Applicant did not make a submission. The Forestry Regulations 2017 provide that, in relation to an application for forest road works,

the applicant shall, before the making of the application, erect a notice in a form determined by the Minister, at the entrance from the public road to the land to which the application relates or, where no entrance exists, at the point where it is proposed to create an entrance, so as to be easily visible and legible by persons using the public road, and shall not be obscured or concealed at any time.

As no party contested the location of the site notice as marked on the Biomap, the FAC accepted this as the actual location where the site notice was erected and that the network of public roads as mapped in the application was correct. The DAFM submitted that the site notice was erected in compliance with the

Regulations and was erected at the end of a private road network. However, this does not align with the information submitted in the application which shows the site notice to be erected on the end of a network of public roads. The Applicant made no response to the appeal. The FAC therefore relied on the information submitted in the application, on the DAFM, in the notice of appeal and submissions received.

The FAC noted that the site notice was erected at the end of part of the network of minor public roads and close to a more major public road according to the application. It is understandable that such a location might be chosen as it would likely that the site notice would be visible to more people. However, the obligation as established in the Forestry Regulations 2017 is that the site notice be located at the entrance to the lands and be visible and legible by persons using the public road. In this instance the site notice was located, based on the mapping provided, more than a kilometre from the entrance to the lands from the public road. More significantly, while located in a location that would be more likely to be visible, the site notice is located past junctions in the public roads so that a person could travel along the public road from the north to and from the site and never encounter the site notice. The FAC considered, based on the evidence provided to it, that the location of the site notice could not be considered to be in keeping with the requirements of the Forestry Regulations 2017 and that this constituted a serious error in the making of the application and the making of the decision. As the error occurred at the start of the process and before the application was made, the FAC determined that the decision of the Minister should be set aside.

The FAC considered that the position of the DAFM was in conflict with the information on the application and, if the DAFM is correct and the road network is private in nature, this indicates serious errors in the application mapping and the erection of the site notice in any case.

Having determined that the decision should be set aside the FAC considered that determining the other grounds might be considered moot but that it would be appropriate and fair in the circumstances to consider and determine them.

In relation to the grounds contending that the application was deficient as it did not include details of emissions, the FAC considered the contentions of the Appellant and the response from the DAFM. The requirement is to provide a description of the likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from the expected residues and emissions and the production of waste, where relevant.

The FAC considers that the application provides details of the works including the length, standard and construction method, including machinery, of the proposed forest road. The location is well described and mapped. The FAC would agree with the DAFM position that emissions in this context would relate to a number of different potential sources of emissions. As noted, the road in this instance would be unbounded and constructed using the build on top method. While the construction phase would clearly result in greenhouse gas emissions, the operational phase would not be associated with ongoing greenhouse gas emissions in the manner associated with other projects such as energy projects. Practically all human activities and forms of construction are associated with greenhouse gas emissions and the FAC does not consider that it would be reasonable to conclude that just because the construction of a project would result in emissions that it would be automatically determined that the project would result in significant effects on the environment for the purposes of the EU EIA Directive. In particular, this would result in a determination that all or practically all projects should be considered to have a significant effect on the environment which would not appear to be in keeping with the provisions and purpose of the legislation. The proposal is in keeping with standard forest practice and the DAFM recorded that it

considered that the proposal is in keeping with the achievement of an appropriate forest road network and density.

The grounds go on to state that the "Forest Industry cannot keep externalising its environmental impacts" but does not contextual this claim. The legal obligations in relation to the reporting and accounting of greenhouse gases by Ireland falls to other authorities and processes and the FAC did not consider that this formed part of the licencing process.

The FAC considered that the application included the required details of the proposed forest road works included those related to the construction type and location. The FAC did not consider that there was a basis to conclude that there are significant effects on the environment that would be likely to arise from the project that are not described 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.

In relation to the suggestion that the licence conditions lack clarity, the FAC reviewed the grounds and the response from the DAFM. The FAC would consider that compliance with the conditions falls to the licence holder and their agents as relevant. The Minister for Agriculture, Food and the Marine is empowered to set standards of good practice and the Forestry Standards Manual has been amended and republished on a number of occasions. The FAC considered the identified condition to be clearly stated and that the grounds were speculative in nature and did not provide a clear basis to conclude that an error has been made in relation to the conditioning of the 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.

In relation to the suggestion that the cumulative impact had not been assessed and that an EIA was mandatory in this instance. The EU EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU) 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. Annex II contains projects related to afforestation and deforestation and road construction.

The Irish Forestry Regulations 2017, in relation to forestry licence applications, 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 Appellant did not provide a basis for the claim that there are significantly in excess of 2,000 metres in the forest area. In any case, the FAC would not consider that simply because the physical length of existing roads was greater than the established threshold length of an individual project that this would trigger a mandatory EIA. Potential impacts associated with projects

would occur at various stages and, in particular, impacts could occur during the construction phase that would not be ongoing or likely to occur once the construction phase has been completed. While the cumulation of impacts must be considered this clearly differs from the cumulation of length. The DAFM was required to undertake a screening for EIA and such a process was adopted in this instance.

The FAC does not agree that an EIA was automatically mandatory in this instance. However, in considering these grounds and the screenings undertaken by the DAFM, the FAC noted a number of errors. In screening for EIA, the DAFM relied solely on forestry projects and did not clearly record that it considered potential effects associated with non-forestry projects that might result in cumulative effects. The FAC considered this to be an error.

In the Appropriate Assessment (AA) screening, the consideration of other plans and projects refers to an outdated County Development Plan and Forestry Programme and relies on their being no "residual effects" that might arise from the proposal. The FAC would understand that the term residual effects is generally associated with the effects that might remain after the implementation of measures to avoid effects and its use introduces a lack of clarity in the screening process as such mitigation measures cannot be relied upon at the screening stage to avoid proceeding to Appropriate Assessment.

The FAC considered the full appeal and submissions made, the record of the decision and all relevant material. Having completed its deliberation, the FAC was satisfied that serious errors were made in the making of the decision and in the application process as described. Therefore, the FAC is setting aside the decision of the Minister for Agriculture, Food and the Marine in relation to the granting of licence CN92661 in accordance with Section 14B of the Agriculture Appeals Act 2001, as amended.

Yours sincerely,

Vincent Upton on behalf of the Forestry Appeals Committee

