



3rd April 2020

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Our ref: FAC 215/2019

Subject: Appeal in relation to afforestation licence CN84332

Dear [REDACTED]

I refer to your appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine (DAFM) on licence CN84332.

The FAC established in accordance with Section 14 A (1) of the Agriculture Appeals Act 2001 has now completed an examination of the facts and evidence provided by the parties to the appeal.

Background

Afforestation licence CN84332 for Nolagh, Co. Cavan was granted by the DAFM on 22nd August 2019.

Hearing

A hearing of appeal FAC215/2019 was conducted by the FAC on 25th March 2020.

In Attendance at Hearing:

FAC Members: Mr. Des Johnson (Chairperson), Mr. Pat Coman, Mr. James Conway & Mr. Vincent Upton

Decision

Having regard to the evidence before it and, in particular, the considerations and reasoning set out below, the FAC has decided to confirm the decision of the Minister regarding licence CN84332.

The proposal is for 7.51 ha afforestation with Sitka spruce and mixed broadleaves of enclosed, agricultural land at Nolagh, Co. Cavan. Site preparation will take place through mounding and woody weed removal, without additional drainage required. No fertiliser is proposed on the site and weed control will take place through herbicide control in years 1 and 2 and manual weed control. All hedgerows and trees will be retained, and an area of unplanted land will be maintained 60 metres around the closest dwelling. Gartnaneane wind farm lies to the southwest, which was constructed in 2014 and consists of 10 turbines. A powerline runs from the wind farm across the proposed afforestation site and no planting will take place around the line.

The grounds of appeal state that based on the information supplied it was not possible to make a decision which was in compliance with the requirements of the Habitats and EIA directives and having regard to a number of judgements of the CJEU. The grounds also state that no assessment of cumulative effects was

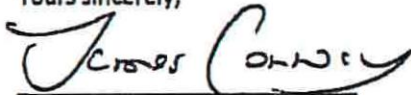
made. In a statement to the FAC, the DAFM responded that they would confirm the decision without change and noted that the proposal is 17 km from the closest European site and that no water courses adjoin the proposal.

In considering the appeal and making a decision, the FAC undertook an appropriate assessment screening under the Habitats Directive and a preliminary examination of the proposal in relation to the Environmental Impact Assessment Directive. These considerations are available on the public file.

The closest European site is Killyconny Bog (Cloghbally) SAC, which is over 17 km in direct distance from the proposal. A portion of the River Boyne and River Blackwater SAC and River Boyne and River Blackwater SPA lie over 18 km from the proposal. Due to the scale and nature of the proposal, the lack of any hydrological connectivity and the degree of separation the proposed afforestation would not result in the possibility of a significant effect on these or any other European site. The area is rural and agricultural in nature and there are few other projects in the vicinity. A small number of other afforestation licences have been granted and there is planning permission for a slatted shed and dormer bungalow in the townland. As noted, Gartnaneane wind farm lies to the southwest. A small stand of mature forest is located to the north of the proposal. Due the factors noted previously there is no possibility of any other plans and projects resulting in the proposed afforestation having a significant effect on any European site through in-combination effects. The FAC concluded that the proposal covered by licence CN84332, either alone or in-combination with other plans or projects, would not result in the possibility of a significant effect on any European site. Furthermore, the FAC concluded that the proposal would not result in the likelihood of a significant effect on the environment, taking account of possible cumulative effects, and that Environmental Impact Assessment Screening or the submission of the Environmental Impact Assessment Report were not required.

In deciding to confirm the decision of the Minister to grant the licence, the FAC considered that the proposed development would be consistent with Government policy and Good Forestry practice. Before making its decision, the FAC considered all of the information submitted with the application, the processing of the application by the DAFM, the grounds of appeal and submissions and observations received.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'James Conway', written in black ink over a horizontal line.

James Conway, on behalf of the Forestry Appeals Committee



FAC 215/2019 CN84332

30th March 2020

The proposal is for 7.51 ha afforestation with Sitka spruce and mixed broadleaves of enclosed, agricultural land at Nolagh, Co. Cavan. Site preparation will take place through mounding and woody weed removal, without additional drainage required. No fertiliser is proposed on the site and weed control will take place through herbicide control in years 1 and 2 and manual weed control. All hedgerows and trees will be retained and an area of unplanted land will be maintained 60 metres around the closest dwelling. A power line crosses the site in a southwest-northeast direction.

Appropriate Assessment Screening

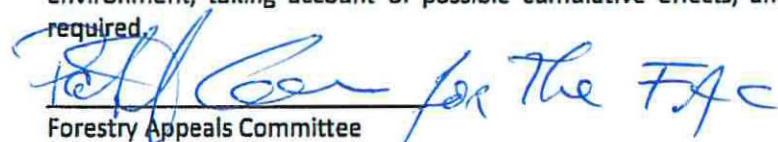
There are no European sites within 15 km from the proposed afforestation area, which lies in the Lough Erne catchment. The area covered by the proposal is not crossed or adjacent to any aquatic features and is comprised of enclosed agricultural land at an elevation of c.200 metres. The closest European site is Killyconny Bog (Cloghbally) SAC (000006), which is over 17 km in direct distance from the proposal. A portion of the River Boyne and River Blackwater SAC (002299) and River Boyne and River Blackwater SPA (004232) lie over 18 km from the proposal. Due to the scale and nature of the proposal, the lack of any hydrological connectivity and the degree of separation the proposed afforestation would not result in the possibility of a significant effect on these or any other European site. The area is rural and agricultural in nature and there are few other projects in the vicinity. A small number of other afforestation licences have been granted in the townland and small forest stand is located to the north of the proposal. There are existing planning permissions for a slated shed and dormer bungalow in the townland. Gartnaneane wind farm lies to the southwest and was constructed in 2014 and consists of 10 turbines. A power line runs from the wind farm across the proposed afforestation and no planting will take place around the line. There are also permissions related to a quarry to the southeast of the proposal but this lies over 2km away. Due to the factors noted previously there is no possibility of any other plans and projects resulting in the proposed afforestation having a significant effect on any European site through in-combination effects. The licensed proposal contains no measures designed to avoid or reduce effects on a European site.

The FAC concluded that the proposal covered by licence CN84332, either alone or in-combination with other plans or projects, would not result in the possibility of a significant effect on any European site.

EIA Preliminary Examination

The proposal is considerably below the threshold of 50 ha for the mandatory submission of an Environmental Impact Assessment report with the application. The proposal is on the south-western side of a raised area but not particularly prominent in a rural agricultural landscape with a number of small lakes in the wider vicinity. There is a ribbon development of houses along a public road over 100m to the north-east from the site and a single dwelling to the north. Baileborough is the closest town and is some 6km to the southwest. There is an existing network of hedgerows which will be retained on the site and a 60 metre setback from the dwelling to the north. This unplanted area is stated to amount to 0.15 ha. A public road runs to the north of the proposed planting but is at a remove and separated by agricultural fields and hedgerows and there will be minimal visual impact from the road. The proposal is unlikely to significantly impact on traffic outside of limited periods of planting and felling. Gartnaneane wind farm is to the southwest, which was constructed in 2014 and consists of 10 turbines. A power line runs from the windfarm across the proposed afforestation and there is a specific setback around the line. There are a limited number of other afforestation projects in the area but only one small existing mature forest to the

north. As noted, there will be no possibility of a significant impact on a European site and there are no pNHAs or NHA in the direct vicinity. There is no hydrological features on or leading from the site. The planting will increase carbon stored on the site and may have some limited benefits as a habitat. Overall the FAC concluded that the proposal would not result in the likelihood of a significant effect on the environment, taking account of possible cumulative effects, and that formal EIA screening was not required.

 for the FAC

Forestry Appeals Committee