



**An Coiste um Achomhairc
Foraoiseachta**

Forestry Appeals Committee

11 June 2020

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Our ref: FAC 311/2019

Subject: Appeal in relation to afforestation licence CN84362

Dear [REDACTED]

I refer to the appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine in respect of afforestation licence CN84362.

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 CN84362 was granted by the Department on 31 October 2019.

Hearing

A hearing of appeal 311/2019 was conducted by the FAC on 09 June 2020.

FAC Members:

Mr Des Johnson (Chairperson), Mr Vincent Upton, Mr Jim Byrne and
Mr Pat Coman

Decision

The Forestry Appeals Committee (FAC) considered all of the documentation on the file, including application details, processing of the application by DAFM and the grounds of appeal, before deciding to confirm the licence (Reference CN 84362).

The proposal is for afforestation on a stated site area of 3.3ha (in 4 plots) at Astrish Beg, Mullananallog, Co. Monaghan. The proposal includes mounding and herbicide control in years 0-4, angle notch planting, no drainage, and no fertiliser. Soils are stated to be predominantly brown podzols. The slope is flat to moderate, ground cover is wet grassland and there is no aquatic zone on or adjoining the site. There is approximately 7.4% forestry in the townland and 3.52% within 5km. The site contains an archaeological site (ringfort). This is a rural, agricultural area with a dispersed settlement pattern. There are small areas of dispersed forestry in the wider area.

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The DAFM identified 1 Natura 2000 site within 15km of the proposed site - Slieve Beagh SPA. The qualifying interest for this site is the Hen Harrier. Other projects, both forestry and non-forestry are listed. The DAFM concluded that there is no possibility of a significant effect on any Natura 2000 site due to the unsuitability of the project area for the listed species, the absence of an aquatic zone within or adjoining the project site and the absence of any significant watercourse.

The DAFM referred the application to An Taisce, Monaghan County Council and Inland Fisheries Ireland (IFI). No response was received from An Taisce. The County Council noted that the proposed site is not located within a designated site but that the site contains a protected monument. The submission did not object to the proposal. The IFI response stated that the proposed lands are close to a tributary leading to Astrish Lake which has significant stocks of tench, rudd, perch and pike. The outflow from the lake is into the Ulster Blackwater, which is a valuable fisheries resource for salmon, trout and eels. All environmental guidelines should be adhered to.

The DAFM approved and issued a Licence dated 31st October 2019.

There is a single appeal against the decision to grant the Licence. The grounds state that based on the information supplied it was not possible to approve a Licence in accordance with the provisions of the Habitats and EIA Directives. Reference is made to several Court judgments and, in particular, Finlay Geoghegan in Kelly v An Bord Pleanála. The grounds contend that there was no proper assessment and no assessment of cumulative effects.

In response, the DAFM state that Natura 2000 sites within 15km were examined. Slieve Beagh SPA is approximately 7km separated from the proposed lands and is not hydrologically connected. The proposed lands are not within a Hen Harrier Red Area and do not contain habitat ideal for Hen Harrier foraging. Public websites were examined – County Council, An Bord Pleanála, the EPA. Forestry projects identified include forest roads (CN 84006 & CN 84854). Non-forest projects include new dwellings, loose bedded shed, poultry shed and poultry unit. There would be no significant effect alone or in combination.

Prior to making its decision the FAC carried out a Stage 1 screening in accordance with the provisions of the Habitats Directive and a preliminary examination in respect of EIA. Copies of this screening and preliminary examination are contained in the public file. Having regard to the nature, scale and location of the proposed development, the FAC considered that all Natura 2000 sites within 15km of the proposed site should be included in a Stage 1 screening for Appropriate Assessment. There is a single Natura 2000 site in this jurisdiction – Slieve Beagh SPA with a separation distance of 7164m and qualifying interest being the Hen Harrier. The FAC also noted that there are two European designated sites in Northern Ireland – Slieve Beagh-Mullaghfad-Lisnaskea SPA (12.04km separation and qualifying interest being Hen Harrier) and Slieve Beagh SAC (14.01km separation distance and qualifying interests being Natural dystrophic lakes and ponds and Blanket Bogs (if active bog)). The FAC noted that there is no aquatic zone within or adjoining the proposed site, no significant stream or river adjoining and no hydrological connectivity to any of the above listed sites. Having regard to the nature and scale of the proposal, the existing land use, the absence of hydrological connectivity, and the separation distances to the listed Natura 2000 sites and, in particular the SPAs, the FAC concluded that the proposed development would not give rise to the likelihood of any significant effect on any Natura 2000 site. Noting the rural, agricultural character of the surrounding area, the dispersed settlement pattern, listed forestry and non-forestry projects in the vicinity, the FAC



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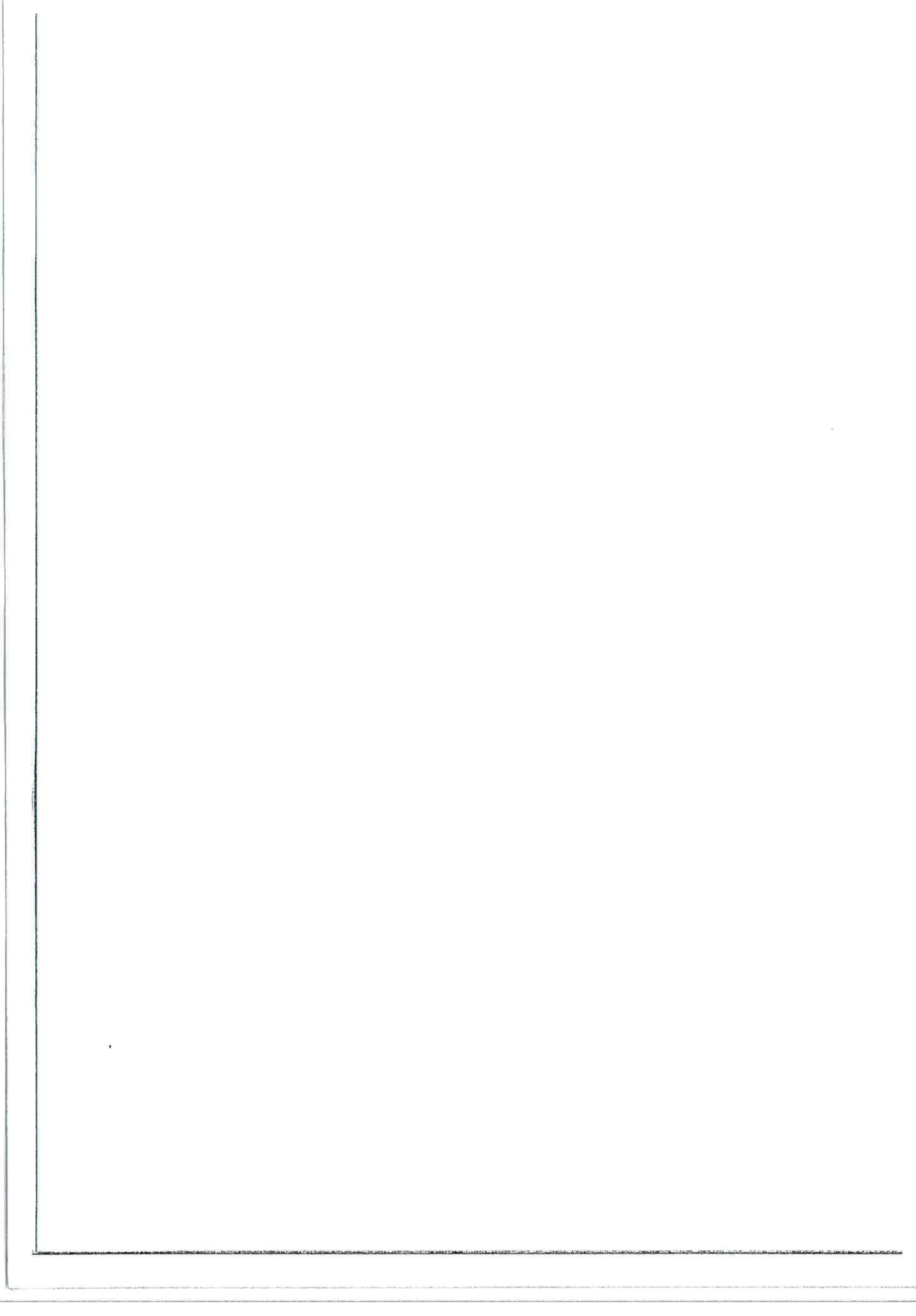
concluded that the proposed development, in-combination with other projects and land uses would not be likely to have a significant effect on any Natura 2000 site. The FAC concluded that the proposed afforestation is not directly connected with or necessary to the management of any European site and that conditions attached to the Licence could not be considered as measures designed to avoid or reduce impacts on any Natura 2000 site.

The proposed afforestation is significantly sub-threshold for the purposes of the EIA Directive and the associated Irish Regulations. The FAC noted that the site is not of any particular scenic value. No protected views would be interrupted. The percentage of forestry in the townland is approximately 7.4% and 3.52% within 5km of the proposed site. The proposal would result in a change of land use and will have a small visual impact. Small scale, short term disturbance is likely during ground preparation and planting, but this would not be significant. There is a Recorded archaeological feature on the site and this would be protected with appropriate setbacks in the proposed development. Having regard to the nature and limited scale of the proposal, the characteristics of the site and the surrounding receiving environment which is mainly rural and agricultural in character with a dispersed settlement pattern, the absence of a likelihood of significant effects on biodiversity, and details of other projects, both forestry related and non-forestry, the FAC concludes that, following a preliminary examination, the proposed development by itself, or in combination with other projects and land uses, would not be likely to have significant effects on the environment.

In confirming the decision to approve the licence, the FAC considered that the proposed development would be in accordance with Government policy and Good Forestry Practice.

Yours sincerely

Pat Coman on behalf of the Forestry Appeals Committee



CN 84362 Assessments

Proposed development and location

The proposal is for afforestation on a stated site area of 3.3ha (in 4 plots) at Astrish Beg, Mullananalog, Co. Monaghan. The proposal includes mounding and herbicide control in years 0-4, angle notch planting, no drainage, and no fertiliser. Soils are stated to be predominantly brown podzols. The slope is flat to moderate, ground cover is wet grassland and there is no aquatic zone on or adjoining the site. There is approximately 7.4% forestry in the townland and 3.52% within 5km. The site contains an archaeological site (ringfort). This is a rural, agricultural area with a dispersed settlement pattern. There are small areas of dispersed forestry in the wider area.

Appropriate Assessment screening

The proposed afforestation is not directly connected with or necessary to the management of any European site and that conditions attached to the Licence could not be considered as measures designed to avoid or reduce impacts on any Natura 2000 site.

Having regard to the nature, scale and location of the proposed development, it is appropriate to consider all Natura 2000 sites within a 15km radius of the proposed site for the purposes of Stage 1 screening. In the Republic of Ireland there is a single site – Slieve Beagh SPA. This is separated from the proposed site by 7164m. There is no aquatic zone on the proposed site and no stream or river connecting to this Natura 2000 site. The qualifying interest is the Hen Harrier. Having regard to the nature and small scale of the proposal, the existing land use being improved agricultural grassland, the characteristics of the surrounding landscape and the separation distance, the FAC concluded that the proposed development would not be likely to give rise to a significant effect on the Slieve Beagh SPA, having regard to its qualifying interest. The FAC noted that there are two Natura 2000 sites in Northern Ireland within 15km of the proposed site. These are Slieve Beagh-Mullaghfad-Lisnaskea SPA (12.04km separation and qualifying interest being Hen Harrier) and Slieve Beagh SAC (14.01km separation distance and qualifying interests being Natural dystrophic lakes and ponds and Blanket Bogs (if active bog)). For similar reasons, the FAC concluded that the proposed development would not be likely to give rise to any significant effects on these sites, having regard to their qualifying interests.

Noting the identified forestry and non-forestry projects, and the rural, agricultural nature of the area with a dispersed settlement pattern, the FAC concluded that these, considered cumulatively with the proposed development, would not be likely to give rise to significant effects on any Natura 2000 site, having regard to the sites qualifying interests and conservation objectives.

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|------------|------------------------|-------------|----------------|--|---|
| 0041 67 | Slieve Beagh SPA | 7164.7 6 | WithinDistance | Birds A082 Hen Harrier (<i>Circus cyaneus</i>) | http://www.npws.ie/sites/default/files/protected- |
|------------|------------------------|-------------|----------------|--|---|

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| | | | | | sites/conservation/objects/COO04167.pdf |
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EIA Preliminary Examination

The EU EIA Directive (Directive 2011/92/EU as amended by Directive 2014//52/EU) sets out, in Annex I a list of projects for which 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 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). 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 parameters where the Minister considers such development would be likely to have significant effects on the environment.

The proposal is for afforestation on a site area of 3.3ha in a rural agricultural area with a dispersed settlement pattern. The site is not of particular scenic value and no protected views or prospects would be obstructed. There is an archaeological feature (ringfort) on the site and this would be protected with appropriate setback in the development. There would be small scale, short-term disturbance and traffic movement during site preparation and planting in the short term but this is not considered significant. There would be no likelihood of significant impacts on any Natura 2000 sites. There is an absence of any aquatic zone on or adjoining the site and no significant watercourse; as such there would be no significant impact on water quality. The townland has a forest cover of 7.4% and there is 3.52ha forest cover within 5km. Having regard to the nature, scale and location of the proposal, the FAC concluded that there is no real likelihood of it resulting in a significant effect on the environment, itself or cumulatively with other projects, and that the submission of an Environmental Impact Assessment Report or formal screening is not required.

Des Johnson

On behalf of the Forestry Appeals Committee

10th June 2020.