



Deirdre and John Munnelly

22nd December 2025.

Subject: FAC Ref Nos 141/2024 and 142/2024 regarding CN94517

Dear Deirdre and John Munnelly,

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 FAC established in accordance with Section 14 A (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.

Hearing and Decision

Having regard to the information before it and 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. The FAC considered appeals FAC141/2024 and FAC142/2024 during a sitting of the FAC held remotely on the 11th September 2025.

In attendance:

FAC Members: Mr. Myles Mac Donnacha (Deputy Chairperson), Mr. Luke Sweetman,
and Mr. Derek Daly.

Secretary to the FAC: Ms. Aedin Doran.

Having regard to the evidence before it, including the record of the decision, the notice of appeal, the Statement of Fact (SOF) from the Department of Agriculture, Food, and the Marine (DAFM), and submissions received, the FAC has decided to affirm the decision of the Minister for Agriculture, Food and the Marine to grant afforestation licence CN94517. The reasons for this decision are set out hereunder.

Background

An afforestation licence (CN94517) for approximately 15.07 hectares at Roosky, Ballintober, Co. Mayo was issued by the DAFM on the 27/11/2024, subject to conditions.

The initial application was for 11 plots but the project comprises 12 plots in two sections, one north, and one south of the Dunowen River. The proposed afforestation is for FT 12 - *Mixed high forests with mainly spruce, 20% broadleaves*, in Plot 1 (1.75ha) and Plot 2 (6.26ha). Plots 3 to 6, and Plot 11 (totalling 5.69ha) are proposed to be FT 1 – *Native Forests*, with a 50/50 mix of Birch and Additional Broadleaves

and the remaining plots (totalling 1.37ha) are proposed as “Bio”. Plot 12 was created as an additional Bio plot following ecological assessment of the proposal by the DAFM’s Ecology Unit. Stock/sheep fencing of 1,900 metres is also approved. The site is accessed via the public road network fronting the site. Mapping indicates watercourses traversing and bounding a section of the site. The project area is described in the documentation as largely dominated by improved grassland GS4 over gleys. An Aquatic zone/river (Duvowen_010) is present along the southern boundary of plots 1 and 2. The relevant watercourse to the north of plot 3 connects to the (Cloonaghmore_040). An electricity transmission line traverses the project site. The approved operations include ground preparation using mounding/inverted mounding, slit planting and standard stocking. No additional drainage will be implemented and there will be no use of fertiliser. Weed control will be by the use of herbicide in year 1.

The project site is located on EPA mapping as within two river sub-basin the Cloonaghmore_040 (17%) and Duvowen_010 (83%). Publicly available data in the *Cycle 3 HA 34 Moy & Killala Bay Catchment Report, May 2024* indicates the status the Cloonaghmore_040 and the Duvowen_010 as good and in terms of risk is not at risk.

Applicant Documentation

Documentation submitted included mapping, including a biodiversity /operational map and fencing map and public notices.

DAFM Assessment

DAFM documentation states that the date of publication for public consultation was 10/04/2024.

There is an Appropriate Assessment Screening Report & Determination (AASRD) dated 28/08/2024 on file prepared by an ecologist on behalf of the Minister for Agriculture, Food and the Marine and published as “AA Screening Determination” on the FLV on the 27/11/2024. The AASRD examines nine European sites, Bellacorick Bog Complex SAC IE0001922, River Moy SAC IE0002298, Killala Bay-Moy Estuary SPA IE0004036, Killala Bay-Moy Estuary SAC IE0000458, Lough Conn and Lough Cullin SPA IE0004228, Glenamoy Bog Complex SAC IE0000500, Lackan Saltmarsh and Kilcummin Head SAC IE0000516, Bellacorick Iron Flush SAC IE0000466 and Lough Dahybaun SAC IE0002177. All sites were screened out with reasons provided for the screening conclusions reached for each of the European Sites examined concluding that the project does not advance to the appropriate assessment stage in relation to these European Sites.

The AASRD states that in undertaking the screening for Appropriate Assessment, the following were taken into account:

- *the initial application, including all information submitted by the applicant, information available via iFORIS (including its GIS MapViewer) and input from the District Inspector (including information following field inspection);*
- *responses from consultation bodies and submissions from 3rd parties;*

- o A referral letter was issued to Western Region BRD, Inland Fisheries Ireland on the 11/04/2024. No response was received.
- o There are numerous submissions received to date with many concerns in relation to the afforestation project site. There is also a submission received from the 'Ballintubber, Rooskey and Cloonaghmore Concerned Residents Group'. The full details of all submissions can be viewed on the FLV viewer <https://flv.apps.services.agriculture.gov.ie/>.

This report has reviewed and taken into consideration the ecological concerns of the submissions...

- ...These submissions relevant to Ecology highlight issues in relation to the need for Appropriate Assessment, general ecology concerns, in addition to hydrology concerns, that there may be environmental impacts as a result of the proposed project, including concerns regarding drainage and chemicals, impacts on water quality, effects on local wildlife and habitats including biodiversity of insects, the potential for adverse effects on flora and Fauna, possible impacts to otter and adverse impacts on bird species.
 - An Ecological walkover survey was undertaken on 26/06/2024, which factored in general ecological and environmental concerns, while an updated HNVf and habitat assessment were also completed. ▪ A desk study of Birdwatch Ireland was completed to assess known Breeding Wader's hotspot maps. The National Biodiversity Data Centre (NBDC) for known bird species within the 1km or 2km blocks [G12I & G12H] containing the project site. The National Parks and Wildlife Service (NPWS) supply the DAFM/Forest Service with current and up to date policy and maps of Curlew territories and breeding site locations and there are no current records of CU occurring in the project site or wider environ.
 - General forestry guidelines will ensure the protection of water quality within the local environment.
- any subsequent supporting documentation received from the applicant;
 - o The application Forester submitted the HNVf report on 25/04/2024 in response to the Further Information request dated 11/04/2024 from the Forest Service Inspector.
 - any other plan or project that may, in combination with the plan or project under consideration, significantly affect a European Site;
 - any information or advice obtained by the Minister;
 - o An ecological survey for HNVf was undertaken on 26/06/2024 by a Forest Service Ecologist and the subsequent HNVf report on 03/07/2024 identifies a species-rich habitat. Site-specific conditions were identified:
 1. Retaining the areas of species-rich habitat as ABE (New plot 12).
 2. A habitat setback of 10m is to be retained outside of the new plot 12. Refer to the Habitat Map Appendix B, and associated photos Appendix C attached.

- any information gathered during site visits by DAFM representatives;
 - o An Ecological Walkover survey was carried out by the Forest Service Ecologist on the 26/06/2024, with the Habitat details listed above.
 - o There were no protected habitats or invasive species listed on Schedule 3 of the Birds and Natural Habitats Regulations 2011 (as amended), encountered.
 - o A possible Fox (*Vulpes vulpes*) trail was observed within plot 4. There were no signs of Badger (*Meles meles*), Otter (*Lutra lutra*) or other protected species observed.
 - o ESB lines intersect the application site, splitting the site into various plots.
- Conservation Objectives, Natura 2000 forms, site synopsis and supporting documents for each relevant European site, available from National Parks & Wildlife Service (www.npws.ie);
- available ecological and environmental information including aerial imagery, historical OS maps, DAFMs iFORIS system, QGIS and ArcGIS applications and data available at National Parks & Wildlife Service (npws.ie), EPA Maps, GeoHive, Data and maps (gsi.ie), Biodiversity Maps (biodiversityireland.ie);
- relevant publications, scientific papers, guidelines and other information sources, where referenced;
- any other relevant information.

On file is an Appropriate Assessment Screening Report Appendix A: In-combination report for Afforestation project CN94517 and uploaded on the FLV as "Incombination screening stage" on the 27/11/2024. This report refers to consulting various online databases on the 22/11/2024 in order to identify other plans and projects which are also located in the general vicinity of the project area in the River Sub-Basin Cloonaghmore_040 and Duvowen_010.

It includes in section 6 an In-Combination Statement which concludes;

"that there is no likelihood of the proposed Afforestation project CN94517 when considered individually, having a significant effect on the relevant European Site(s), as described elsewhere in the Screening Report. The relevant Qualifying Interests / Special Conservation Interests and Conservation Objectives, as listed elsewhere in the Screening Report, have been taken into consideration in reaching these conclusions. Furthermore, it is considered that the regulatory systems in place for the approval, operation (including any permitted emissions) and monitoring of the effects of other plans and projects are such that they will ensure that they do not have any significant effect on those same European Site(s). There is no likelihood that the proposed project will have, or contribute to, any significant effect on those same European Site(s), when considered in combination with other plans and projects".

High Nature Value Farmland (HNVf)

A DAFM ecologist completed a High Nature Value farmland (HNVf) Field Report dated 03/07/2024 following a field visit on the 26/06/2024. The HNVf report includes photographs taken on site, a Habitat Map, and the survey results for each Habitat Unit. This report identified that the majority of the site is improved grassland with a portion of wet grassland in the section south of the Dunowen River. The HNVf

Field Report identified an area of species-rich habitat in the very north of the northern section of the proposal and recommended that this site be retained for biodiversity. Also on file is a document titled "High Nature Value farmland (HNVf) Assessment Review" dated the 13/08/2024. This review document was completed by a separate ecologist to the field report and includes a list of prescribed "HNVf Measures" including the retention, with a 10m unplanted buffer, of the "GS4b" habitat recorded on an appended map. This area correlates with the northerly section of species-rich habitat identified in the HNVf Field Report.

Environmental Impact Assessment (EIA)

The DAFM carried out an Assessment to Determine EIA Requirement is marked as Date Inspection Certified on 22/11/2024 and bearing the date 21/11/2024, in advance of making the decision to grant the licence subject of this appeal. In this assessment the Inspector recorded a consideration of the application across a range of criteria relevant to the proposed afforestation, including water, soil, designated areas, landscape, amenity and recreation, transfrontier, cumulative effects and referrals and submissions. The assessment notes that the project area is within an area designated as being potentially acid sensitive in relation to surface waters; referred to the HNVf assessment and archaeologist report; comments on the submissions received and determined that the project was not required to undergo EIA.

There were a number of other documents prepared as part of the assessment of the project including; Inspector's Certification Report, date inspection certified as 22/11/2024 and dated 27/11/2024 recommends permission subject to conditions; Site Details - Pre Approval CN94837 dated 27/11/2024; Site Plots - Pre Approval CN94837 dated 27/11/2024 and a DAFM Archaeology report dated 14th November 2024 which indicated no objections.

Referrals

The FAC noted, based on documentation submitted, that the application was referred to Inland Fisheries Ireland on the 11/04/2024 and no response was received.

Other submissions

A large number of third party submissions were also received referring to issues of traffic safety, vermin, fire hazard, visual issues, habitat and biodiversity issues, devaluing property in the area, compliance with Forestry Act 2014, the heavy concentration of forestry in the area, impact on farming and inadequate fencing

Decision

The decision was to approve and the licence for an approved area of 15.07 hectares was issued on the 10/10/2024 and is marked as uploaded to FLV on the same date subject to conditions. The licence includes relatively standard conditions as well as additional conditions requiring, *inter alia*, compliance with the Environmental Requirements for Afforestation and the Forestry Standards Manual, retention of existing trees and hedgerows, a requirement to install an extended 80m setback bordered with five

rows of broadleaves around the domestic dwelling which borders plots 1, 2 and 3 and to adhere to requirements of the archaeology report.

Appeal

There are two appeals against the decision to grant the licence. The full grounds of appeal were considered by the FAC and are to be found on file. The Notice of the appeal and full grounds of the appeal were provided to the relevant parties.

In summary, the grounds of 141/2024 refer to;

- Reference is made to the EIA Requirement Report and given the level of forestry and the slopes irrespective of setback there is a danger of runoff to watercourses which are important spawning rivers.
- The contention is a negative impact on local amenities and to designation of the Mayo County Development Plan.
- The project will impact negatively on dwellings, the road network and being an elevated location on visual amenities.
- Reference is made to the issue of fire risk.
- Reference is made to pollution of rivers.
- Reference is made to the issue of chemicals on nearby forestry plantation.
- Reference is made to impact on biodiversity and wildlife and to the survey of bird species.
- Reference is made to a lack of public consultation, issues of inadequate fencing and current scale of forestry in the area.
- Photographs are included with the grounds.

In summary, the grounds of 142/2024 refer to;

- Reference is made to the proximity of the project to his dwelling.
- Query in relation to the location of setbacks is raised.
- Reference is made to the electricity transmission lines crossing the site.
- Reference is made to the elevated nature of the site.
- Reference is made to impact arising from overshadowing notwithstanding the proposed setback.
- Concern is raised in relation to setbacks, mounds, the proposed fencing and impact on farming.
- The high level of biodiversity in the area is referred to.
- The impact on traffic safety is referred to.
- Reference is made to email correspondence with a Garda Superintendent regarding Mayo County Council and the Road Safety Authority.
- Photographs are included in the grounds.

DAFM Statement (SOF) to the FAC

A Statement of Fact (SOF) was received by the FAC from the DAFM in response to each appeal against CN94517 and was provided to the parties to the appeal. In summary, the SOFs outline the procedure adopted by the DAFM in processing the application, the related dates and the final decision. It is

submitted (among other matters) that the decision was issued in accordance with DAFM procedures, SI 191/2017 and the 2014 Forestry Act.

The SOFs also in the response specifically in relation to 141/2024 and 142/2024 from the forestry Inspector refer to matters raised in the grounds of appeal to the FAC referring to;

- "All drainage and cultivation will be in accordance with the Land Types for Afforestation and Environmental Requirement for Afforestation (ERA) documents... A 10-meter setback distance will be established along the aquatic's zones and a 5-meter setback distance will be established along all relevant watercourses as per the biodiversity map.
- The mandatory and appropriate dwelling house setbacks of 60m as per ERA has been exceeded, taking into consideration the submissions on file the following additional condition was attached - "An 80m setback bordered with 5 rows of broadleaves is to be installed around the domestic dwelling which borders plots 1,2&3". The biodiversity map shows these areas as "bio plots" - these are unplanted areas. The standard 60 meters is measured from each dwelling house external wall to the closest tree line to be established on the site. However, this has been lengthened to 80 meters and will now include 5 rows of broadleaves. This now allows a distance of 90 meters to the nearest conifer trees on site from any dwelling house neighbouring the site."
- The classification of the area as defined in the Mayo County Council (CDP) is matter for the local authority.
- In relation to Road Safety this should be raised with the local authority. The forest will be established in line with the Forest Standards Manual which stipulates all required setbacks to public roads. If an application is sought to establish a forest road entrance for harvesting operation this will be considered at that time under a separate licence and will only be approved if the mandatory safety sightlines can be achieved along with all other necessary criteria
- Within the context of afforestation, the most effective and efficient means of controlling vegetation is by the use of herbicides. Successful establishment to Forestry Division standards should be achieved by controlling vegetation in a 1.0 metre diameter spot (or 1.0 metre wide band) around the base of the trees for the first 4 years.
- DAFM is satisfied that the risk of fire is low/very low, that the plantation proposed itself is not a fire risk and no additional measures are required.
- The department has completed both an HNVf and Appropriate Assessment Screening Report / Determination which considered the possibility of any potential effect to wildlife species. No report or survey has been submitted by the appellant or any qualified individuals that contradicts the reports by the departments Ecology Unit. The department is satisfied that the reports on file are accurate and completed to a scientific standard.
- The department uses the most up to date data on bird sightings provided by the Birdwatch Ireland data set. Furthermore, a site visit was completed by an Ecologist.
- The potential of this afforestation to provide habitat for vermin was considered, it was not deemed to require a specific condition of approval.
- Regarding chemicals on nearby forestry planation, the DAFM stated that they are unaware of which forest is being referenced by the Appellant but that this licence only relates to CN94517. The DAFM submitted that the use of chemicals is governed by the Health & Safety at Work Act 2005. Individuals using herbicides, pesticides, managers and forest owners must adhere to best practice and legislation relating to the regulation of Pesticides in Ireland: SI 155 of 2012 - The European Communities (Sustainable Use of Pesticides) Regulations 2012

- In relation to public consultation the project was publicly advertised and all submissions received by the department for this licence were considered by the Forestry Inspector during the licencing process.
- In relation to fencing of the site, the DAFM stated that the forest must be fully protected from the time of planting with the correct fencing but that there is no requirement to duplicate existing stock-proof fences, rivers, substantial walls, or other stock-proof boundaries (including roads and strong stock proof hedgerows) with additional fencing.
- Any potential cumulative impact from the granting of this licence was considered as part of the EIA assessment and In-Combination report.
- The ESB powerlines have been identified on the Registered Foresters biodiversity / operational map. It can be noted the correct setback distance has been applied and the area will be left unplanted.

Additional Submission

There was an additional submission from the Appellant in FAC141/2024 in response to the DAFM's SOF. This submission largely reiterated submissions made in the grounds of appeal. This submission was considered by the FAC and provided to the DAFM and the Applicant to allow for any response they may have. No response was received.

Consideration of FAC

As alluded to earlier in this letter and 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. The remit of the FAC, as set out in Section 14B of the Agriculture Appeals Act 2001, as amended, is to consider appeals against specified decisions of the Minister for Agriculture, Food, and the Marine, and to determine if a serious or significant error, or a series of errors, was made in making the decision under appeal, and if the decision was made in compliance with fair procedures.

In addressing the grounds of appeal, the FAC considered the completeness of the assessment of the licence application and an examination of the procedures applied which led to the decision to grant the licence. The FAC also had regard to the documentation provided through the DAFM's FLV as notified to the parties, the notices of appeal, and the statements provided by the DAFM.

In making a decision on the proposed afforestation, the Minister is required to undertake a number of processes and to have regard to certain matters. This includes, in keeping with Article 6 of the EU Habitats Directive, considering the likelihood of significant effects of a proposal itself or in-combination with other plans and projects on European sites, Special Areas of Conservation and Special Protection Areas, having regard to the conservation objectives of those sites and determining whether an Appropriate Assessment is required. In relation to the broader environment, the Minister must also consider the likelihood of significant effects on the environment which may arise from a proposal and whether an EIA is required.

The FAC noted that DAFM carried out an Assessment to Determine EIA Requirement in advance of making the decision to grant the licence subject of this appeal. The FAC finds that the DAFM recorded a consideration of the application across a range of criteria relevant to the proposed afforestation and determined that the project was not required to undergo EIA. The FAC also noted that this assessment indicates that the DAFM considered reports prepared in relation to the assessment of the project's potential effects on the environment and on the Natura 2000 network, and in relation to submissions received during public consultation.

In relation to Appropriate Assessment, the FAC finds that the DAFM, in its processing of the application which led to the decision subject of these appeals (FAC Ref. Nos 141/2024 and 142/2024), carried out an Appropriate Assessment screening of the proposal under Article 6(3) of the EU Habitats Directive. Accordingly, the FAC considered if the procedures leading to the making of the decision to grant the licence for the proposed development were consistent with the Habitats Directive. The FAC finds that the DAFM prepared the following documents / reports.

- An Appropriate Assessment Screening Report (AASRD) dated 28/08/2024 on file as carried out by an ecologist.
- An Appropriate Assessment Report Appendix A: In-combination report for Forest afforestation project CN94517 which is itself undated, is on file and refers to various online resources, datasets and DAFM's own databases being consulted on the 22/11/2024 in order to identify other plans and projects which are also located in the general vicinity of the project area in the River Sub-Basins Cloonaghmore_040 and Duvowen_010.

The application was subject to a period of public consultation when the application was made. Specific to appropriate Assessment, The DAFM undertook its own screening and the FAC noted that nine European sites are recorded in the AASRD as lying within 15km of the project area and that all sites were screened out with reasons provided for the screening conclusions reached for each of the European Sites examined concluding that the project does not advance to the appropriate assessment stage in relation to these European Sites.

The FAC also noted that the proposed project is not within a Natura 2000 site nor is it required for the management of a Natura 2000 site and that the sites within a 15Km threshold distance were subjected to the Appropriate Assessment process in relation to the likelihood of significant effects arising from afforestation project CN94517. The FAC noted that the AASRD concludes that "For the purpose of compliance with Section 42(16) of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011), as the project will not have any significant effect, alone or in combination with other plans and projects, on the European Sites listed above, DAFM also determines that the project will not adversely affect the integrity of these European Sites."

In relation to In-Combination assessment the FAC would understand that the consideration of other plans and projects should take place as part of the process to ascertain whether the project, either individually or in-combination with other plans or projects, is likely to have a significant effect on a

European site and an Appropriate Assessment of the implications of the project and such effects on the European site, having regard to the conservation objectives of the sites concerned.

In the In-Combination assessment, it is concluded that there is no likelihood of the proposed Afforestation project CN94517 when considered individually, having a significant effect on the relevant European Site(s), as described elsewhere in the Screening Report and that the relevant Qualifying Interests / Special Conservation Interests and Conservation Objectives, as listed elsewhere in the Screening Report, have been taken into consideration in reaching these conclusions. The DAFM stated that:

Furthermore, it is considered that the regulatory systems in place for the approval, operation (including any permitted emissions) and monitoring of the effects of other plans and projects are such that they will ensure that they do not have any significant effect on those same European Site(s). There is no likelihood that the proposed project will have, or contribute to, any significant effect on those same European Site(s), when considered in combination with other plans and projects.

The FAC had regard to the grounds of appeal submitted by each Appellant. In the first instance, the FAC noted that the project was not referred to Mayo County Council. In relation to the provisions of the CDP the plan outlines an overall strategy for the proper planning and sustainable development of the functional area of Mayo County Council over a 6-year period covering a wide range of matters including economic development, agriculture, rural housing settlement strategy and housing strategy and landscape protection. The FAC noted reference made to the elevated nature of the site however the CDP identifies Landscape Policy Areas and the project lies in an area where forestry has a low potential to create adverse effects on the landscape unless design and siting is poor and the provisions of the plan would not appear to preclude afforestation and the site is not proximate to a scenic route. It was also noted by the FAC that the species mix proposed in relation to the project includes a high level of broadleaves and areas reserved as bio areas.

The FAC also noted that the HNVf Assessment Review identified measures to be included in any permitted project including that all native broadleaf trees to be retained, all native hedgerows, native treelines and drystone walls are to be retained as well as a minimum 5 m unplanted setback from them, areas of scrub (e.g. elder) and non-high forest species (e.g. blackthorn, hawthorn, willow) must be retained as ABE or excluded from planting and that a habitat GS4b as identified on an accompanying map in the review must remain unplanted, either being excluded or retained as ABE and that a minimum 10 m additional unplanted setback must be retained from the outer edge of this habitat unit. The scheme as proposed also provides for a number of plots to have a 50/50% mix of Birch and Additional Broadleaves and another group of plots are proposed as unplanted "bio".

In relation to traffic the FAC noted that the site gains direct access onto the public road network. The FAC considered that the level of traffic generated by the afforestation project would not be greater than current agricultural practice and would be lower for a number of years after establishment and before any potential thinning operations. The decision before the FAC relates to an afforestation proposal and

the evidence before the FAC indicates that access for the proposed operations is adequate. The FAC consider that should the landowner seek to fell trees in the future, this would require a tree felling licence and would be required to adhere to any related conditions in addition to any laws regarding the standard of the access road and the use of public roads.

In relation to water quality and protection of groundwater generally the FAC noted that the project was referred to IFI and no response was received. It noted the proximity to a watercourse and that the proposed planting does provide for setbacks from the aquatic zone and all relevant watercourses as per the biodiversity map. The FAC also noted that the approved operations do not include the use of fertiliser and limit herbicide use to spot-spraying in "yr0", that no additional drainage will be required and that all of these factors limit the proposal's potential to impact the surrounding environment.

The FAC noted that the issue of watercourse protection and water quality generally was considered in the assessment of the project and also noted these matters were considered as part of the application process and that there are specific measures set out in the Environmental Requirements for Afforestation (ERA) and the Forestry Standards Manual in relation to drainage and water setbacks which serve to protect water quality and restrict the operations of drainage works on site.

The FAC also noted that the licence conditions require that the afforestation project and all associated operations shall be carried out and completed in accordance with the measures set out in the ERA and the Forestry Standards Manual. The ERA states that the purpose of water setbacks is "To create at the outset, a buffer of natural ground vegetation positioned between defined water features and the forest crop and associated operations, in order to protect water quality and aquatic ecosystems from possible sediment and nutrient runoff from the site at afforestation and throughout the remainder of the forest rotation." The FAC considers that this approach is reasonable in the interest of protecting water quality and the hydrology of the site and that the water setbacks prescribed are in line with the requirements of the ERA. The FAC concluded that the DAFM has not erred in its processing of the application in so far as these grounds of appeal are concerned.

In relation to setbacks from existing dwellings, there are mandatory setback requirements in relation to planting of forestry from housing and utilised buildings of 60 metres as per the provisions as set out in the ERA. It is noted that, following the DAFM's consideration of submissions received on the application, the minimum setbacks specified are exceeded in the decision to grant the licence and a condition of the grant specifies an 80-metre setback bordered with 5 rows of broadleaves to be installed around the domestic dwelling which borders plots 1, 2 and 3. The FAC understands that the dwelling setback is measured from the outer wall of the dwelling and not the boundary of the property and that the result will be 90-metres of separation between the dwelling in question and the first row of conifer trees planted and the issue of overshadowing of habitable dwellings would not significantly arise. Also, in relation to setbacks, The FAC noted that Section 7 of the Forestry Standards Manual sets out the requirements in relation to unplanted corridors beneath power lines and that the licence conditions require adherence to these standards. The FAC is not satisfied that the DAFM has erred in its processing of the application in so far as these grounds of appeal are concerned.

Regarding the potential for the proposal to impact on birds and wildlife in general, the information before the FAC is that the application underwent screening for EIA, screening for Appropriate Assessment by an Ecologist, the project site was subject to a HNVf survey by an Ecologist, and a desk assessment using up-to-date data from Birdwatch Ireland. The FAC noted that the DAFM considered the outcome of these screenings and assessments prior to making a decision to issue CN94517. Specifically, the DAFM have required that all existing trees and hedgerows be retained, the retention of a species-rich area in the north of the proposal, and the planting of broadleaves along all public roads and water setbacks. The FAC also noted that the Bio Map submitted with the application includes the retention of 15% of the project area for Areas for Biodiversity Enhancement. The FAC is not aware of any report, survey, or any other documentation from an Ecologist or any other suitably qualified individual which has been submitted by either Appellant. In these circumstances, the FAC considers that the Appellants have not adduced any convincing evidence in support of their grounds relating to potential impacts on birds and wildlife. Based on the evidence before it, the FAC is not satisfied that the DAFM have erred in relation to these grounds of appeal.

In relation to public consultation, the information before the FAC indicates that three Site Notices were erected at separate point where the proposal meets the public road. The application information was published on the FLV and on the DAFM's website and there were a number of submissions to the DAFM by members of the public in relation to the proposal. The application included a fencing map which indicated where new fencing would be erected and 1,900metres of Stock-Sheep fencing has been approved. The FAC consider that the Forestry Standards Manual outlines that it is the Applicant's responsibility to ensure that the "forest is fully protected from the time of planting". In relation to the amount of forestry in the surrounding area, the FAC noted that the DAFM's EIA assessment document records that the level of forest cover in the Townland is less than 2% and has been at that level for the previous five years. The extent of forest cover within 5km of the proposal is recorded as 11.91% which has slightly increased from 11.47% five years previously and is just above the national average of 11%. The FAC noted from reviewing publicly available aerial imagery, and the FLV, that the proposal itself is not adjoining any existing forest or sites approved for afforestation and is predominately surrounded by agricultural fields. Based on the information before it, the FAC is not satisfied that the DAFM erred in relation to these grounds of appeal.

The FAC considered the grounds relating to fire risk, and the DAFM's response to same. The FAC noted the location of the proposed project area, which appears to be surrounded by actively managed agricultural fields. The FAC also considered the grounds relating to an increase in vermin. The FAC is not satisfied that the DAFM erred in relation to these grounds of appeal.

Regarding the use of chemicals on a separate forestry plantation, the FAC considers that its jurisdiction is limited to the licence decision under appeal. As outlined previously, the licence conditions require adherence to specific standards including in the application of pesticides and herbicides. The use of pesticides is also regulated in Irish law and the granting of an afforestation licence does not remove any obligations on the landowner or their agents to adhere to the relevant regulations.

In considering the appeal, the FAC had regard to the record of the decision, the submitted grounds of appeal and submissions received. The FAC is satisfied that no serious or significant error or a series of errors were made in the making of the decision in this case, and that the decision was made in compliance with fair procedures. The FAC is, thus, affirming the decision of the Minister regarding licence CN94517 in accordance with Section 14B of the Agriculture Appeals Act 2001, as amended.

Yours sincerely,

Derek Daly On Behalf of the Forestry Appeals Committee

