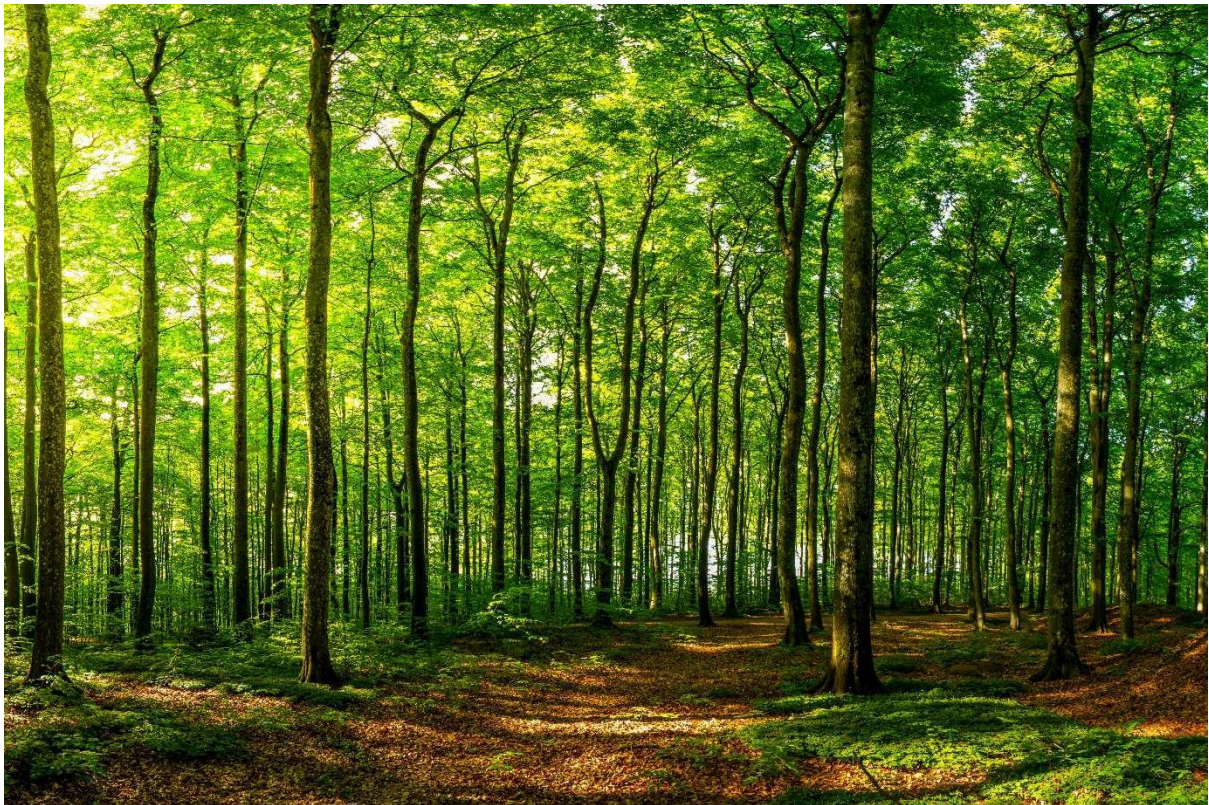


Forestry Appeals Committee

Chairperson's Report 2024



An Coiste um Achomhairc
Foraoiseachta

Forestry Appeals Committee

To the Minister for Agriculture, Food, and the Marine

In accordance with the provisions of Section 14(4) of the Agriculture Appeals Act, 2001, as amended, the report of the Chairperson of the Forestry Appeals Committee for 2024 is hereby submitted.

Seamus Neely
Chairperson, Forestry Appeals Committee
30th May 2025

*Agriculture Appeals Office
Kilminchy Court
Dublin Road
Portlaoise
Co Laois*

Phone: 057 8667167

E-mail: forestry@agriappeals.gov.ie

Website: Agriculture Appeals Office - Forestry Appeals Committee (www.agriappeals.gov.ie)

Contents

Forestry Appeals Committee – Annual Report 2024	4
Purpose of this Report	4
Background	4
Overview of the FAC Procedure	5
Appeal Trends	6
Committee Structure, Activities and Members	7
Independent Role of the FAC	7
FAC Hearings	8
Format of Hearings	9
Statistics	9
Overall Number of Appeals	9
Decisions Published	10
Time Taken to Determine Appeals	10
Category of Decisions	10
Outcome of Decisions	11
Appeals submitted and Fees	13
Access to Information on the Environment	14
Litigation	14
Stakeholder Meetings	14
FAC Administrative Procedures	15
Website	15
Commentary	15

Forestry Appeals Committee – Annual Report 2024

Purpose of this Report

This report fulfils the legal requirement at Section 14 (4) of the Agriculture Appeals Act 2001, as amended by the Forestry (Miscellaneous Provisions) Act 2020, which requires the Chairperson of the Forestry Appeals Committee (FAC) to submit a report to the Minister for Agriculture, Food and the Marine (the Minister) of his/her activities, and of the activities of the Committee, under the Act during that year.

Background

The Agriculture Appeals Act, 2001, (the Act) was initially amended by the Forestry Act 2014 to include a new Section 14A to provide for a new appeals service against certain decisions made by the Minister for Agriculture, Food and the Marine (DAFM) on forestry licence applications. Decisions on Forestry licensing applications include tree felling, afforestation, forest road works and aerial fertilisation as defined and provided for under the Forestry Act 2014 and Forestry Regulations 2017. The amendments to the Agriculture Appeals Act, 2001 by the Forestry Act 2014 led to the establishment, by the Minister, of the FAC in 2018. The FAC carries out its functions under separate statutory provisions to those of the Agricultural Appeals Officers. However, the Agriculture Appeals Office provides the administrative and secretariat support to the FAC and, separate from their agriculture appeal functions, Appeals Officers may otherwise be appointed as members of the FAC.

Up until October 2020, the FAC was operating as a committee of four, comprising the Chairperson and three ordinary members. The Agriculture Appeals Act 2001 was amended by the Forestry (Miscellaneous Provisions) Act 2020 which was commenced on 6th October 2020. The amendments provided for, amongst other provisions, the FAC to sit in Divisions. Six additional members of the FAC were appointed, with four of these members being appointed as Deputy Chairpersons. These members brought extensive experience, particularly in the areas of regulatory procedures and relevant EU Directives. Each Division of the FAC was assigned a secretary from the FAC administrative support. Following the resignation of Mr Des Johnson, the then Chairperson, in April 2022, Mr Seamus Neely was appointed Chairperson by the Minister during June 2022. Mr Neely had served as a Deputy Chairperson and this position has not been the subject of a new appointment since that time. The current Chairpersons term will end in June 2025.

Throughout 2024 divisions of the FAC, chaired by the Chairperson or one of the three Deputy Chairpersons, heard appeals and hearings were generally conducted electronically by remote means. The FAC can decide to hold an oral hearing with the parties to the appeal present where it considers this is necessary to properly determine an appeal. During 2024 there were 56 appeals heard against 49 licences and of these there was one where the FAC deemed an oral hearing was necessary and this was held by remote means.

Overview of the FAC Procedure

Similar to what has been seen in previous years, most appeals received in 2024 have been submitted by third parties and concern mainly environmental matters and the implementation of the provisions of the European Union Environmental Impact Assessment (EIA), Habitats and Birds, and Water Framework Directives. During 2024 when the DAFM issued a decision on a forestry licence application that decision was published on the Forest Licence Viewer (FLV) portal (<https://flv.apps.services.agriculture.gov.ie>), an interactive mapping application which displays forestry licence information.

From the start of 2021 relevant forestry licence decisions underwent a 28-day period during which the applicant or any other party who was dissatisfied with the decision could appeal the decision to the FAC. From July 2021, S.I. No. 353 of 2021 amended this period to 14 days from the date of the Minister's decision. However, from September 2023 this period has been further amended to 14 working days through the Agriculture Appeals Act 2001 (Section 14A) Regulations S.I. 423 of 2023. The 14 working days period of appeal can never exceed 28 calendar days under the legislation and the first day of the period is the day the licence decision is made and/or published, whichever is later. The DAFM include a licence condition that works cannot commence during the appeal window. If a licence decision is appealed, the DAFM suspends licences until the appeal has been determined.

The FAC provides a notice of appeal form which must be completed in accordance with the rules set out therein when making an appeal and an appellant must provide the full grounds of appeal and any documentation on which they wish to rely. Only one person (natural or legal) may make a single appeal, where more than one person (natural or legal) wish to appeal each must make a separate appeal, and each appeal must be accompanied by the appeal fee (€200). A licence may be subject to one or more appeals. Any further submissions are considered at the discretion of the FAC. An appeal against a decision is notified to officials of the DAFM by the FAC. The DAFM publishes a list of forestry appeals on its website which includes the name of the appellant. On behalf of the Minister, DAFM officials prepare a statement showing the extent to which the facts and contentions advanced by an appellant are admitted or disputed and submit any information and documents in the control of the Minister that are relevant to the appeal. The DAFM FLV facility provides public access to licence documentation as new applications arise, and the FAC makes each party aware of this information during the appeals process. The DAFM generally rely on the FLV to make documentation available to the FAC. In the case of third-party appeals, the licence applicant is also informed of the appeal and may submit statements and documentation to the FAC in responding to the appeal. The FAC may request further information from the parties to the appeal or other persons or bodies, including State bodies, as it considers appropriate. To facilitate the efficiency of the appeals process, or in cases involving highly specialised matters, the FAC can engage external consultants to provide reports. Where such external reports are included in the appeal decision process, they are noted in the decision and are published alongside the FAC decision on the FAC website.

Where the FAC considers that an oral hearing is necessary it will schedule one and inform the parties to the appeal. The FAC may also inform and/or request the attendance of other parties and referral bodies at the oral hearing, including State bodies. The Chairperson of the Division hearing the appeal has discretion regarding the conduct of an oral hearing as provided for in legislation and may issue directions to parties during an oral hearing.

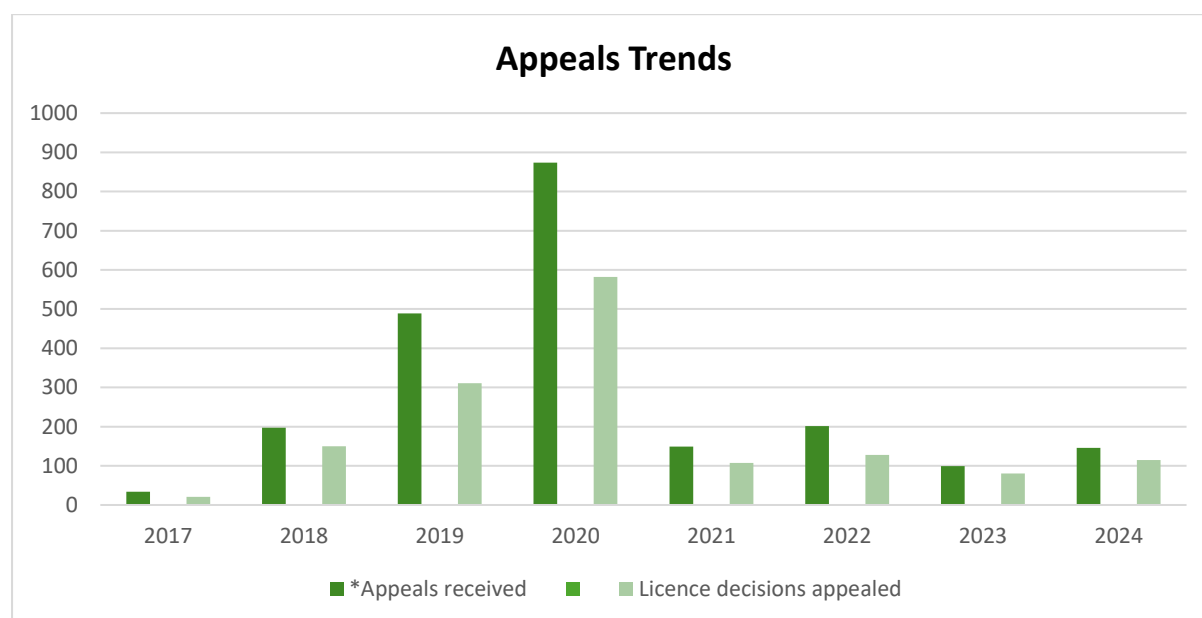
Decisions of the FAC are in writing and include the reasons for the decision made by FAC and are issued to the parties promptly after being agreed by all sitting members. A decision of the FAC is final and conclusive and once the decision is issued the FAC has no further role in the appeal or licence decision. At all times a decision of the FAC may be challenged on procedural grounds through application for Judicial Review by the High Court, the provisions for taking a judicial review are those applied by the High Court.

Since the FAC was established, the number of appeals significantly increased year on year to 2020 and significantly reduced during 2021 following the introduction of the legislative changes in October 2020. A significant increase in appeals occurred in 2024. The following table outlines the trend in appeals received from 2017 to 2024 (inclusive): -

Appeals Trend

	2017	2018	2019	2020	2021	2022	2023	2024	Total
*Appeals received	34	197	489	874	149	201	99	146	2189
Licence decisions appealed	21	150	311	582	107	128	80	115	1494

**There can be more than one appeal against a licence decision of the Minister, not all appeals received were valid, further breakdown of appeals received is detailed on page 14*



Committee Structure, Activities and Members

Up until October 2020, the legislation governing the FAC provided for only one committee to hear appeals. The amendments introduced by the Forestry (Miscellaneous Provisions) Act, 2020 made provision for the establishment of additional Divisions of the FAC to deal with appeals in a more expeditious manner. Following the introduction of this legislation, additional committee members were appointed to the FAC to serve as deputy chairpersons and ordinary members. Throughout 2024 the FAC sat in a number of Divisions, availing of the chairperson and the deputy chairpersons as required.

The on-going allocation of resources occurs in consultation with the Director of Agriculture Appeals. The Agriculture Appeals Office provides the administrative support to the FAC and during the first six months of 2024 there was a Higher Executive Officer, one Executive Officer and one Clerical Officer assigned full time and for the last six months there was one Executive Officer and one Clerical Officer, this was due to staff moves within the section. Depending on workload these staff resources were also available to the Agriculture Appeals Office for other non-FAC related duties. Also, during 2024 two Appeals Officers with the Agriculture Appeals Office also worked as members of the FAC, as appointed by the Minister.

The following members served on the divisions of the FAC in 2024: -

Name	Status
Seamus Neely	Chairperson
Donal Maguire	Deputy Chairperson
John Evans	Deputy Chairperson
Myles McDonagh	Deputy Chairperson
Derek Daly	Ordinary Member
Iain Douglas	Ordinary Member
Luke Sweetman*	Ordinary Member
Vincent Upton*	Ordinary Member

*Also worked as Agriculture Appeals Officers

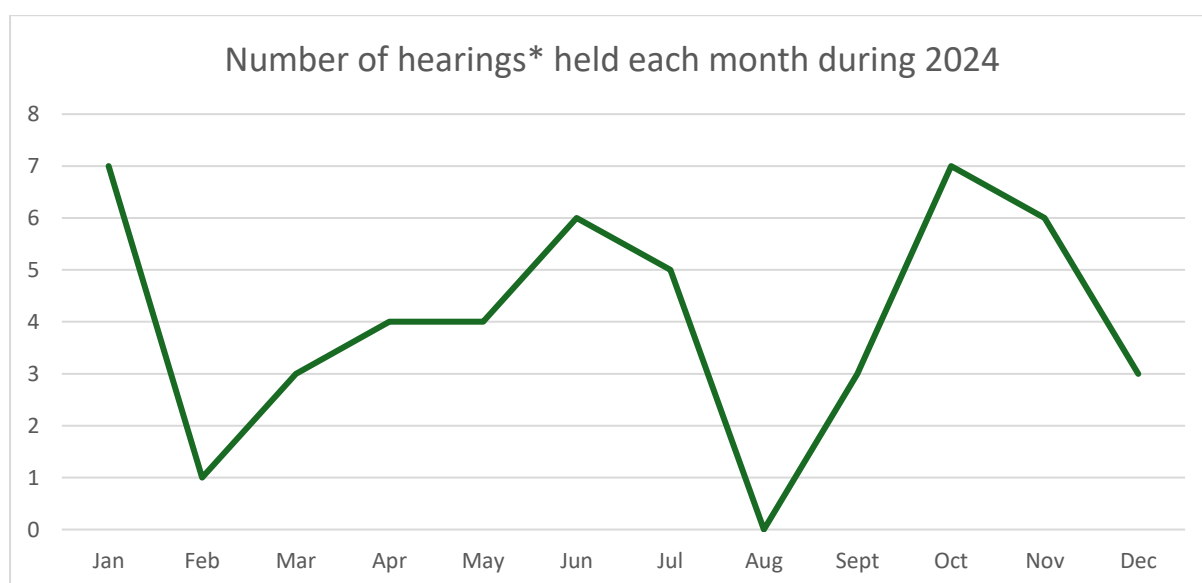
Independent Role of the FAC

The Chairperson, Deputy Chairpersons and Members of the FAC are appointed by the Minister. Legislation requires that the FAC be independent in the performance of its functions. The Chairperson, the Deputy Chairpersons, and the ordinary members of the FAC were informed of the independent role of the committee on appointment and, before sitting at a hearing of any appeal, each of the Chairperson/Deputy Chairperson and Ordinary Members sitting thereon make an individual declaration in respect of any conflict of interest. In circumstances where a Chairperson/Deputy Chairperson or member considers that there could be any possible conflict of interest the member recuses themselves from the hearing and deliberation of the appeal. A note of the declarations in respect of conflict of interest/no conflict of interest are kept on the relevant file.

FAC Hearings

FAC hearings are at first instance non-oral hearings of appeals and are based on the records before the FAC, however the FAC will conduct an oral hearing where it deems an oral hearing is necessary to properly determine an appeal(s). Throughout 2024 hearings and oral hearings have been conducted remotely and in line with legislation. Where oral hearings are conducted, introductions and an agenda are circulated to all parties in advance. Once a decision is reached on an appeal by the FAC, all parties are notified, and decisions are published on the FAC's website (www.agriappeals.gov.ie). In addition, where a consultant's report had been prepared for the Committee, this is also published with the decision.

During the period January 2024 to December 2024 the FAC heard 56 appeals relating to 49 licences. During 2024, the grounds of appeal submitted by appellants were in the main comprehensive and complex, across a wide range of topics raised.



**A hearing can include more than one appeal concerning the same licence decision*

To enable multiple divisions of the FAC to sit, some members were allocated to sit on more than one Division as required. This approach ensured that all Divisions operated to the same high standard with the aim of reaching consistent high-quality outcomes across the various Divisions of the FAC, to the benefit of all parties involved and the public good. However, the FAC will generally not schedule oral hearing of appeals to run concurrently by different Divisions as this could negatively impact the first and third parties and the DAFM, in that they may not be able to attend all oral hearings, with potential implications for fair procedures.

The Chairperson, in consultation with the Director and Deputy Director of the Agriculture Appeals Office, is continually reviewing ways in which greater efficiency can be achieved across the Divisions of the FAC.

Format of Hearings

Appeals received following the commencement of the Forestry (Miscellaneous Provisions) Act 2020, can be heard by the FAC without holding an oral hearing unless, having regard to the circumstances of the appeal, the FAC considers that it is necessary to conduct an oral hearing. Each appeal is considered by the FAC, on a case-by-case basis, to determine whether an oral hearing is necessary. The FAC, up until the end of 2024, has held 25 oral hearings of appeals submitted after the legislative changes in October 2020.

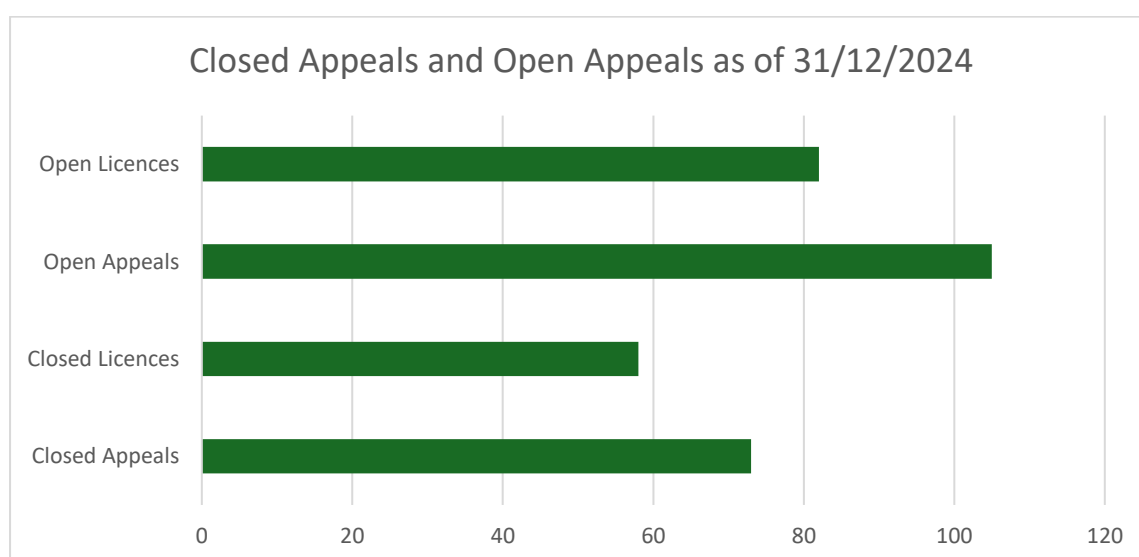
Statistics

The following statistics apply to the period 1 January 2024 to 31 December 2024 and provide an overview of the activity of the FAC.

Overall Number of Appeals

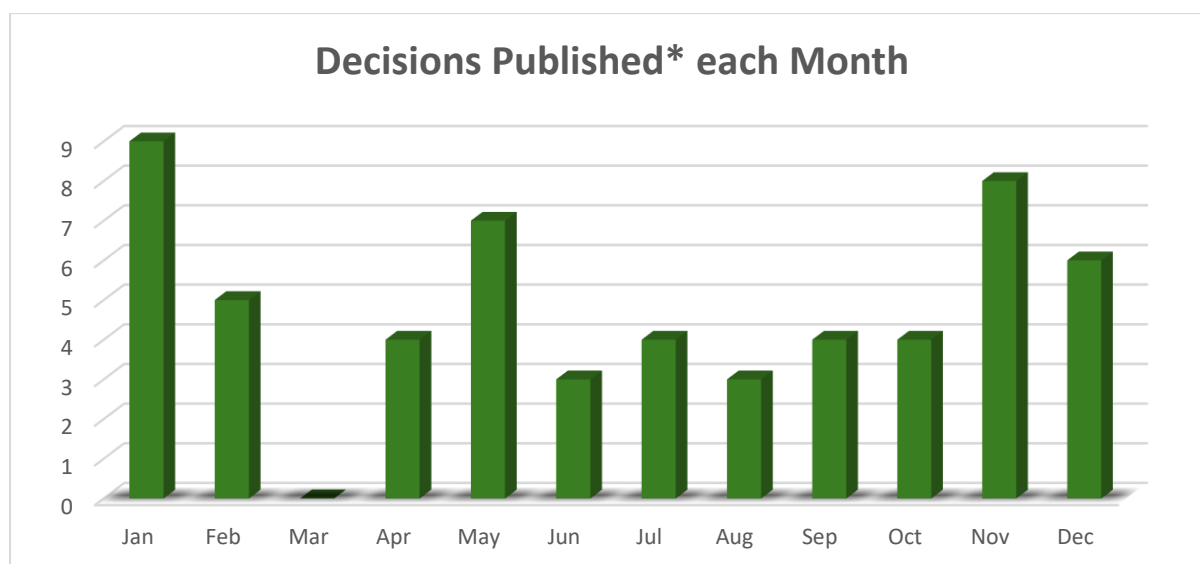
On 1st of January 2024 there were 53 appeals on hand that concerned 41 licence decisions, all of which were carried over from the previous years. During 2024 there were 146 appeals received against 115 licence decisions and of these 18 appeals were invalid, leaving 127 valid appeals received against 99 licence decisions. During 2024, there were 73 appeals decisions issued relating to 58 licence decisions including outstanding licences that were under appeal from previous years. There were also three appeals withdrawn against three licences. On the 31st December 2024 there were 105 appeals still on hand relating to 82 licences. On the 31st December 2024 the FAC were waiting on 75 statements of fact from the Department of Agriculture, Food and the Marine.

Appeals Closed during 2024 and Appeals open as of 31st December 2024



Decisions Published

Throughout 2024, decisions made by the FAC have been published on the FAC website (www.agriappeals.gov.ie). Assessments carried out by the FAC to inform its decision, and any consultants reports considered, are also posted on the website where they occur. The website is updated on a week-by-week basis. There were 73 decisions published relating to 58 licence decisions throughout 2024. The following table provides a monthly breakdown:



Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Decisions published*	9	5	0	4	8	3	4	3	4	4	8	6	58

**Numbers published are based on licence decisions appealed against. There were 73 appeal decisions against 58 licences.*

Time Taken to Determine Appeals

From the date an appeal is heard to the date parties to the appeal received a decision took on average 59 days during 2024. The period has varied from case to case, depending on matters such as the nature and complexity of the grounds of appeal lodged.

Category of Decisions

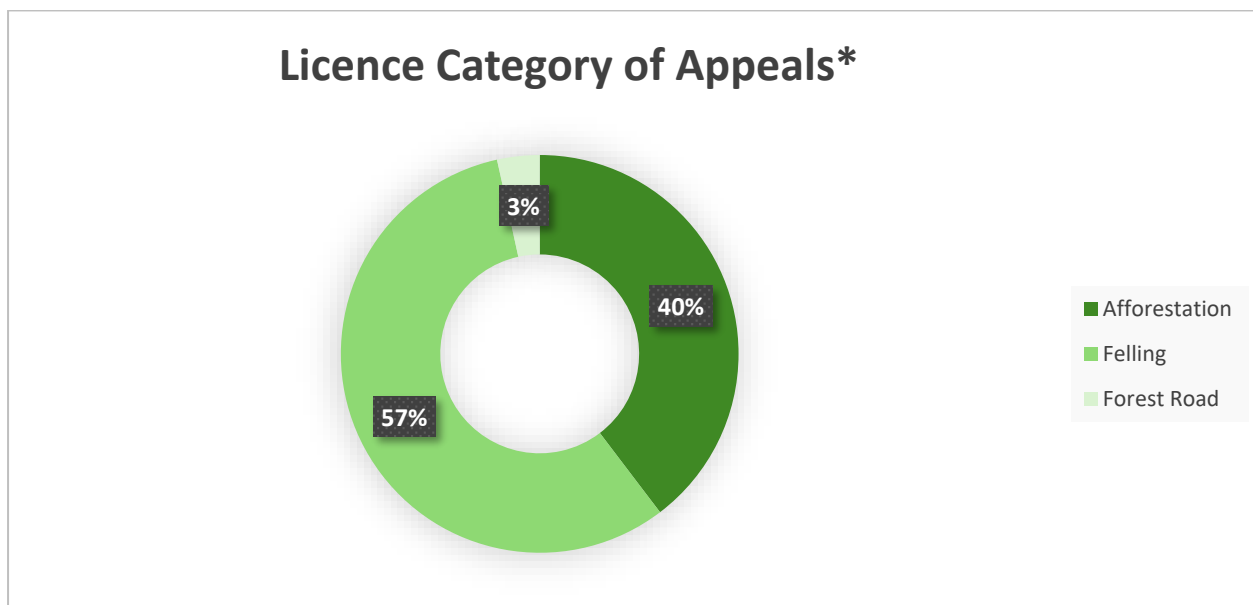
Forestry licences which may be appealed include the following categories:

- Felling
- Afforestation
- Forest Roads
- Aerial fertilisation

The categories of cases decided in 2024 are outlined in the table below:

Licence Type	Afforestation	Felling	Forest Road	Aerial Fertilisation
Number of Licence Decisions appealed*	23	33	2	0

*Numbers are based on licence decisions appealed against, there can be more than one appeal against a licence decision. There were 73 appeal decisions against 58 licences.



*There were no appeals involving Aerial Fertilisation licence decisions

Outcome of Decisions

Up to October 2020, the legislation governing the FAC provided three decision options when deciding an appeal. The options available up to that time were to confirm, cancel or vary a decision. Following the introduction of amendments through the Forestry (Miscellaneous Provisions) Act, 2020 the FAC was provided with the following options in deciding appeals:

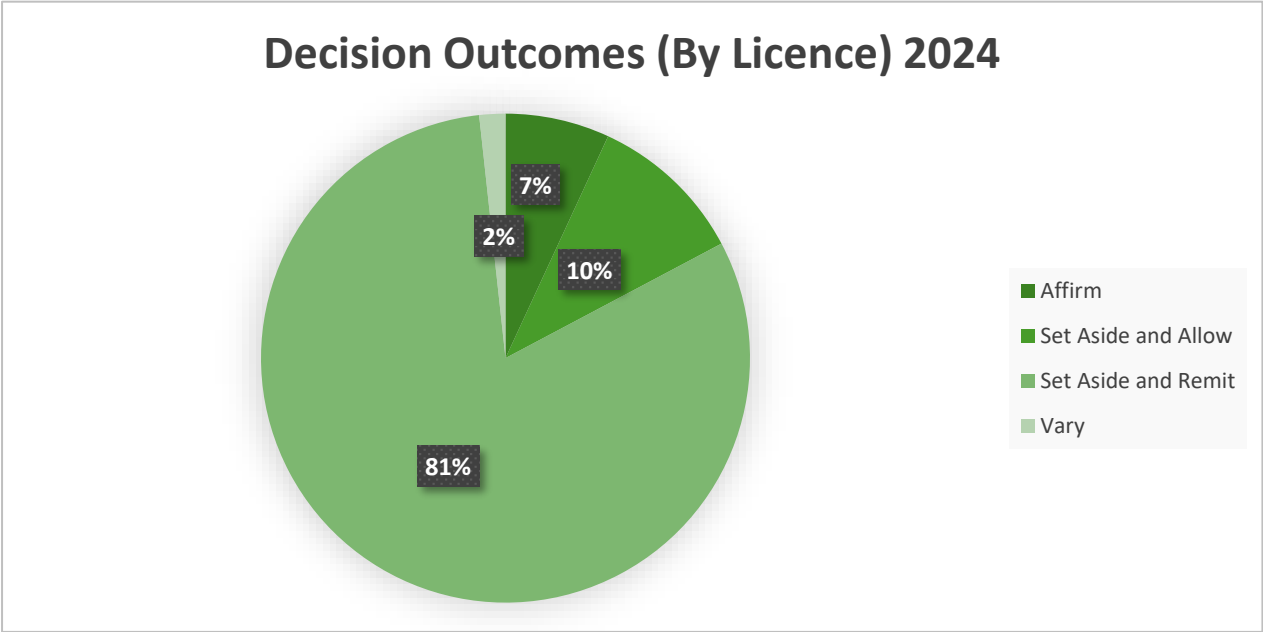
- (a) affirm the decision, or
- (b) where it is satisfied that a serious or significant error or a series of errors was made in making the decision the subject of the appeal or that the decision was made without complying with fair procedure: -
 - (i) vary the decision;
 - (ii) allow the appeal and set aside the decision;
 - (iii) set aside the decision and remit it, for stated reasons, to the Minister; or

(iv) where the Committee considers it appropriate to do so, by reference to submissions, documents, or evidence before it which were not considered by the Minister or for other good reason, substitute its decision for the decision of the Minister.

The following is a breakdown of the decision types in 2024, by licence decision at appeal:

Decision	Affirm	Set Aside and Allow	Set Aside and Remit	Vary
No. of licence decisions subject to a FAC appeal decision*	4	6	47	1

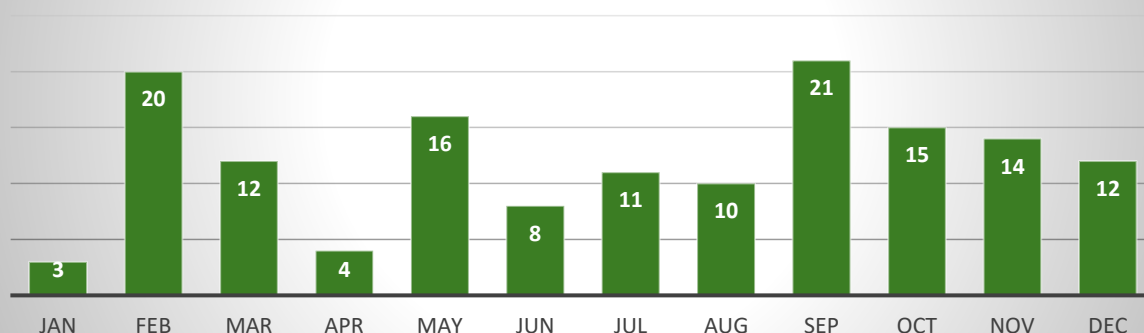
*Decisions are based on licence decisions appealed against, there can be more than one appeal against a licence decision. There were 73 appeal decisions issued on 58 licence decisions.



Appeals Submitted and Fees

The fee required to accompany each appeal is €200, as provided for in the 2020 Forestry Appeals Committee Regulations (S.I. 418 of 2020). The FAC cannot accept an appeal without the appropriate fee. In 2024 the FAC received fees to the amount of €25,400 for 127 valid appeals.

Number of Appeals Received each Month in 2024



This table below provides an overview of the category and county of the 105 licence decisions that a valid appeal was received for during 2024:-

County	Afforestation	Felling	Forest Roads
Carlow	1		
Cavan	3		1
Clare	5	1	2
Cork	4	4	
Donegal		2	
Dublin	1	1	1
Galway	3	1	
Kerry	3	2	1
Leitrim	22	9	6
Limerick	2	1	
Longford	1		
Louth	1		
Mayo	5		
Monaghan	1		
Roscommon	5		
Sligo			1
Tipperary		1	1
Westmeath	1		
Wicklow	4	2	
Total	62	24	13

Access to Information on the Environment (AIE)

During 2024 the FAC received 22 AIE requests. There were 3 other requests brought forward from 2023 of which one was part granted, one was refused, and one was granted. An internal AIE review was not sought on any of these decisions.

Decisions issued during 2024 for 18 of the 22 AIE requests received in 2024, all were decided within one month of receipt. The AIE decisions for requests received in 2024 comprised of 6 grant, 5 part-granted and 7 refused. There were also 3 decisions issued in 2024 for requests received in 2023, the decisions comprised of 1 grant and 2 part-grant. Of the 21 decisions the requestors sought an internal review in 6 instances. The internal reviews resulted in 1 vary, 3 decisions being upheld, 1 granted and 1 decision being part granted. There were five internal review decisions appealed to the Office of the Commissioner for Environmental Information during 2024.

Litigation

Each decision of the FAC may be challenged to the High Court by way of application for a Judicial Review. In 2024, there was one judicial review proceeding notified as being taken against the FAC and the Minister for Agriculture in relation to the submission of an appeal.

Stakeholder Meetings

Since its inception in 2018 the FAC has met with a number of stakeholders at their request on issues not relating to individual appeals. These have included matters such as processes, workload and time periods. Stakeholders met to date have included representatives from DAFM, IBEC, IFA, forestry companies, Coillte, as well as with appellants. In 2024 the FAC had one stakeholder meeting with the Forest industries Ireland, IBEC which was held on 1st May 2024. The Chairperson and members are available to engage in such meetings where required.

FAC Administrative Processes

The FAC has set the format of an appeal as required under the legislation and the Notice of Appeal Form must be employed in making an appeal. All submitted notices of appeal are subject to an administrative check when received. Appeals that are received after the appeal period, appeals received without the required fee and appeals not submitted in the format required by the FAC cannot be considered and are returned with the fee, where paid, by administration staff.

Notices of appeal are considered and determined in keeping with the requirements of the Agriculture Appeals Act 2001, as amended, and the Forestry Appeals Regulations 2020 and in keeping with fair procedures. Under the Forestry Appeals Regulations 2020, the Minister for Agriculture is required to provide a statement to the FAC and evidence/documentation related to the appeal. The parties to an appeal are provided with these submissions and provided with a right of reply. Further submissions may be considered in the determination of an appeal at the discretion of the FAC.

Throughout 2024 hearings were conducted remotely, this was aided by the administration team enabling the files to be shared electronically in a secure manner. Making the best use of available technology, this involves the use of an online cloud sharing system to securely enable access to files, schedules, and information by FAC members.

The FAC administration team schedule and host all hearings for the FAC via WebEx. The WebEx system allows all parties to join the hearing by web link, via the WebEx application or by telephone. The FAC

administration team also populate the cloud sharing system with all appeal related materials from the appeal file prior to the holding of hearings.

Website

The FAC website address is www.agriappeals.gov.ie/forestryappealscommittee/ and provides online access to each decision of the FAC and an explanation of the decision terminology. There is also access to the Notice of Appeals form as well as information concerning requests under the AIE provisions, along with a link to legislation and publications. Decisions of the FAC are published and filed weekly on the site, there is also an excel spreadsheet updated weekly on the website with a full complement of the decisions, which can be easily searched.

In accordance with the provisions of Regulation 7(4) of the 2020 Forestry Appeals Committee Regulations (S.I. 418 of 2020), the DAFM publishes notice of each appeal on its website and the FLV portal for the licence at appeal.

Development of Forestry Appeals Committee Online Appeal System

The development of the FAC Online Appeals and Payment system began at the end of 2024. This system will enable electronic appeals through a dedicated portal that will also enable online payment of the appeal fee and will provide for the upload of documents. It is anticipated that the system will be available for use during 2025.

Commentary

The majority of Decisions of the FAC in 2024 (81%) were to set aside and remit licence decisions. Just over 10% of decisions relating licences appealed were to allow appeals and set aside the licence decision and just under 7% of appeals relating to licence decisions were affirmed. The licence decision in one case was varied.

Matters that led to these decisions cover a broad range but variously included errors in applications made for licences such as in mapping, omissions in screening for EIA requirement, errors or omissions in screening for Appropriate Assessment or in the carrying out of Appropriate Assessment of proposals under Article 6(3) of the Habitats Directive. Some of these errors were technical in nature relating to the required content and processes when making a licence application.

The FAC sets out the reasons for decisions made, in each decision letter and this is intended to clearly point out the errors that have been identified that gave rise to the decision reached.

Leading into 2025, it would seem that the makeup and skillsets of FAC membership is appropriate to address the volume and complexity of appeals being made. Nonetheless the makeup of FAC membership should be monitored on an ongoing basis to ensure that the capacity of FAC remains adequate to address the volume and complexity of appeals being made. It is important that the pipeline of responses from the DAFM, on behalf of the Minister, by way of statements to the FAC relating to appeals, are submitted to the FAC in a timely manner so that appeal hearings can be scheduled at the earliest opportunity.

I wish to record the appreciation of the FAC for the cooperation of applicants, appellants, the DAFM and referral bodies during 2024 which facilitated appeals to be processed efficiently and decisions to issue in a timely manner. I also wish to add the FAC's appreciation for the ongoing support work provided to it by the FAC Administrative team. It remains a key focus of the FAC to schedule and determine appeals in a timely manner and where possible to reduce the average time taken to process appeals and issue decisions. It is hoped that the introduction of a means to enable electronic appeals through a dedicated portal, that will also enable electronic appeal fee payment, can be made operational during 2025 and this will be a welcome and significant development which will enhance the provision of an improved service.