



Forestry Division Statement to the Forestry Appeals Committee

FAC Reference	FAC103/2021
File Reference	CN82466
Scheme	Afforestation - Refusal
Area	4.97 hectares

Summary of application:

Date Submitted	(25/09/2018 + 08/10/2018) Scan 31/10/2018 – Paper Application
Site Notice date	18/10/2018
Date Application Advertised	14/11/2018
Referrals to referral bodies	National Parks Wildlife Service 11/02/2019 Reply 05/06/2019 (No referral letters to An Taisce or Limerick County Council)
Referral to Ecologist	Natura Impact Statement 03/02/2021 + Land Types 29/01/2021 (upload 19/02/2021) on behalf of applicant Field and Desk Assessment by Paul Phelan DAFM Ecologist on 30/03/2021 Appropriate Assessment Screening Determination 05/05/2021 by Paul Phelan DAFM Ecologist Appropriate Assessment Determination 06/05/2021* by Paul Phelan DAFM Ecologist *Typographical error in AAD Section 4. - should read CN82466.
Date Referred to Inspector	14/11/2018 – Certified 24/01/2019 25/03/2019 – Certified 15/04/2019 27/09/2019 – Certified 14/07/2020 02/03/2020 – Certified 13/05/2021
Desk Assessment/Desk & Field Assessment	Field and Desk Assessment (Field inspections – sms 23/01/2019 and sms 09/04/2019)
Submissions Received	4 submissions – 25/11/2018 x 2, 05/12/2018, 06/12/2018
Appropriate Assessment Screening	Natura Sites 1, 2, 3, 4, 5 – Hold: AA screening is not yet completed for one or more European sites. (Taken from the Inspector Certification) (Assessed by DAFM Ecology Unit - See Ecology above) DAFM Ecologist completed the AA Screening Determination on 05/05/2021. Project screened in for the Lower River Shannon SAC (002165), River Shannon and River Fergus Estuaries SPA (004077) and the Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (004161).

Recommendation from Inspector	Refuse
Decision	<p>Environmental Considerations, The proposed area is considered to be predominately comprised of suitable habitat for Hen Harrier conservation - Rough Grassland as described by Ruddock et al. (2012; 2016), is surrounded by the SPA, is located in an area with high likelihood of nesting Hen Harriers (i.e. Red Areas, DAFM 2015) and is within the core foraging range of a further three similar Red Areas for nesting Hen Harriers. Therefore, there is a high likelihood that the proposed afforestation could impact Hen Harrier in the Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA 004161 through removal of foraging, nesting and/or roosting habitat, particularly considering the existing extent of afforestation in the SPA.</p> <p>This refusal is to ensure good forestry practice, the protection of the environment, health and public safety. You are now required to remove your site notice immediately.</p>
Date Decision Issued	25/05/2021
Date Decision Advertised	26/05/2021

Administrative Comments:

The decision was issued in accordance with our procedures, S.I. 191/2017 and the 2014 Forestry Act.

Please see the statement from the Inspectorate.

Name: Mary Coogan

Grade: EO

Date: 20/01/2022

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- vi. Personal data processed by the FAC will only be used for the specific purpose(s) as outlined when the data is collected (Notice of Appeal Form) and as outlined in detail in the data protection section on the Office's website www.agriappeals.gov.ie.
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14. Appellant's Grounds and Statement (additional pages may be included if required)

I have been in touch with my ecologist, who is in the process of drafting a Report. This Report will demonstrate how the proposed afforestation will not impact the habitat for Hen Harrier.

The Ranger in the stacks to Mullaghareirk Mountains, who I have also been in touch with, similarly believes that this forrestation will not impact the Hen Harrier. I am expecting a report from the Ranger. All additional Reports will be posted once received.

15. Declaration

By signing the declaration below you are making an appeal against the decision referred to in this Notice of Appeal Form and declaring that your appeal details may be provided to other relevant parties and may be included in the record of and read publicly at any oral hearing held for this appeal and may be published.

I declare that the information contained in my appeal is true and accurate and that I have read and accept the rules governing the submission and processing of appeals by the Forestry Appeals Committee including Sections 14 A to 14F of the Agriculture Appeals Act, 2001, the Forestry (Miscellaneous Provisions) Act, 2020 and the Forestry Appeals Committee Regulations 2020.

Signature of Appellant: _____

Forestry Appeals Committee

21 JUN 2021



09/07/2021

RE: FAC103/2021

Afforestation application CN82466 was refused on environmental grounds due to proximity to the Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA 004161 and likelihood of impact to protected species (see Appropriate Assessment Determination dated 06/05/2021 and subsequent refusal letter dated 25/05/2021). An appeal was received on the 21/06/2021 in relation to the refusal.

The appellants grounds for appeal state that (a) their ecologist is drafting a report that will demonstrate how the proposed afforestation will not impact the species in question and (b) that the local NPWS ranger is expected to provide a report also stating the project will not impact the species.

An email from the Forestry Appeals Committee (see iFORIS contacts 01/07/2021) states *"this is all the information that the FAC has received. The appellant must submit all the grounds when submitting the NOAF. Please proceed with statement."*

Without the draft/expected reports alluded to in the grounds for appeal, there is no information or rationale provided that I can comment on, or that suggests any alternative conclusion to that provided in the Appropriate Assessment Determination for CN82466 (dated 06/05/2021) would be appropriate:

Name: Paul Phelan

Role: Ecologist

Date: 09/07/2021

Statement from Inspectorate.

Assessment Criteria	
Was the AA screening procedure at the time of approval applied? (Y/N)	Yes
What version of the AA procedure?	Nov19 15km
Standard Operating Procedures applied? (Y/N)	Yes

Based on the information supplied by the appellant, do you recommend any change to the original decision?

(Tick as appropriate)

No change	<input checked="" type="checkbox"/>	Confirm recommendation to grant licence	<input type="checkbox"/>	Revise conditions of licence	<input type="checkbox"/>	Remit licence for reassessment	<input type="checkbox"/>	Revoke licence	<input type="checkbox"/>
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I have issued a Recommendation to Refuse - The proposed area is considered to be predominately comprised of suitable habitat for Hen Harrier conservation - Rough Grassland as described by Ruddock et al. (2012; 2016), is surrounded by the SPA, is located in an area with high likelihood of nesting Hen Harriers (Red Area DAFM 2015) and is within the core foraging range of a further three similar Red Areas for nesting Hen Harriers. Therefore, there is a high likelihood that the proposed afforestation could impact Hen Harrier in the Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA 004161 through removal of foraging, nesting and/or roosting habitat. Following my review of the Appropriate Assessment Determination on file I agree with its recommendation to refuse a licence for afforestation for the lands in question.

Name: Michael O'Brien

Role: District Inspector

Date: 14/12/2021