

Coogan, Mary

From: Coogan, Mary
Sent: Friday 3 June 2022 14:02
To: forestry agriappeals
Cc: Connaire, Daniel; ODonoghue, Saoirse; OBrien, MichaelG; Forestry Support Unit; Coogan, Mary
Subject: DAFM Statements FAC022/2022 FAC023/2022 FAC024/2022 FAC025/2022 CN86193
Attachments: CN86193 DAFM Statement FAC022-2022.pdf; CN86193 DAFM Statement FAC023-2022.pdf; CN86193 DAFM Statement FAC024 2022.pdf; CN86193 DAFM Statement FAC025 2022.pdf; DAFM Ecology Statement FAC022-2022.docx; DAFM Ecology Statement FAC023-2022.docx; DAFM Ecology Statement FAC024-2022.pdf; DAFM Ecology Statement FAC025-2022.docx

Please note that DAFM Inspector and Ecology Statements for FAC022/2022 FAC023/2022 FAC024/2022 FAC025/2022 - CN86193 have been uploaded to FAC Cloud Link today.

Please note that no copy file is provided as IFORIS documentation is visible on the Forestry Licence Viewer for this contract.

Regards,

Mary Coogan,

Forestry Support Unit.

Mary Coogan
Forestry Division, Forestry Support Unit,
Rannóg/Seirbhís Foraoiseachta, Rannóg Cheadúchan,

An Roinn Talmhaíochta, Bia agus Mara
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DAFM Ecologists response to appeal FAC 022/2022 [CN86193]

| | |
|------------------|---------------|
| FAC Reference | FAC 022/2022 |
| File Reference | CN86193 |
| Scheme | Afforestation |
| Species proposed | GPC 3 |
| Area | 5.26 Ha |

Afforestation application, CN86193, initially comprised 6.06ha in the townland of Beihy, County Leitrim. A Natura Impact Statement (NIS), dated 12/11/2021, was submitted and uploaded to iFORIS on the 1/12/2021 with additional information subsequently submitted and uploaded to iFORIS on the 1/2/2022. This additional information assessed part of the project area (approximately 0.62ha) as likely to contain Annex 1 habitat 6410: *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) and recommended the area be left unplanted. Consequently Plot 1 was excluded from the application.

Grounds of appeal relevant to ecology are summarised and addressed below.

The appellant states "Appropriate Assessment is flawed as there is no AA Report; the AAD has predominantly relied on the NIS provided by the developer but has contradicted the findings of the project ecologist"

DAFM Ecology Response:

A NIS was submitted for the application and as such there was no requirement for an AAR.

The Natura Impact Assessment of 12/11/2021 failed to screen-in Lough Forbes SAC 001818 despite the downstream hydrological connection, this was relevant with the inclusion of plot 1 which lies adjacent to aquatic zone. Although the connection is weaker with the exclusion of Plot 1 from project (revised Bio Map 8/2/2022), the presence of relevant watercourses in the project area, which connect to the aquatic zone east of the project area (Black (South Leitrim)_030) Lough Forbes SAC 001818 is screened-in as a precautionary measure as there is a source-pathway-receptor. The project area is located within the Black (South Leitrim)_SC_010 WFD sub-catchment, while Lough Forbes SAC 001818 is located within Shannon[Upper]_SC_050/ Shannon[Upper]_SC_060. The Black (South Leitrim) _030 watercourse drains from the project area and connects to the Rinn_030 which then flows into Lough Forbes SAC 001818 some 14.14km surface water distance downstream with potential (low risk) for indirect impacts to habitats

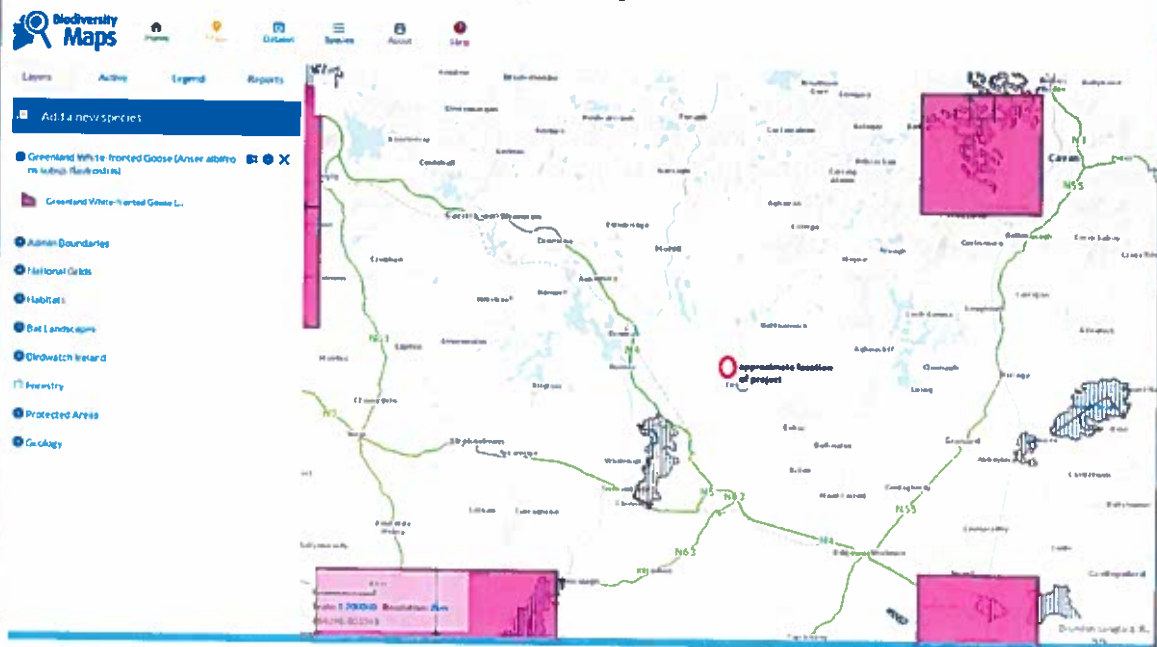
The appellant states "Appropriate Assessment is flawed as it failed to consider loss of potential foraging habitat for Greenland White Fronted Geese (GWFG)"

DAFM Ecology Response:

The project is located ca. 6.8km to the west of Ballykenny-Fisherstown Bog SPA 004101 across the N4. This is the upper end of the core foraging distance scale of 8km (DAFM Bird Foraging Table, vers 6 Jan. 2020, Vickery *et al.* 1999, Johnson *et al.*, 2014, SNH, 2016). The closest IWEBS sites are OF006 at Lough Forbes and Drumshanbo Lough OB012. There are no GWFG

records for either of these sites since IWEBS counts began in 2010/11. The last records for GWFG at the SPA was in 1990/91 (11 individuals), see Ballykenny-Fisherstown Bog SPA 004101 site synopsis <https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004101.pdf> for further information.

Fig. 1 NBDC (National Biodiversity Data Centre) Map showing records of GWFG in the vicinity of the project area and Ballykenny-Fisherstown Bog SPA 004101



NBDC records shown above date back to the Bird Atlas 2007-2011 using both roving and tetrad visits at Lough Oughter SPA 004049, Garriskil Bog SPA 004102 and Lough Iron SPA 004046 and to the south-west of map at Lough Ree SPA 004064.

The assessment of the project area suitability for GWFG within the NIS included Plot 1 (adjoining the aquatic zone) which was subsequently excluded from the application. Although grassland is present throughout the site, this does not automatically correlate to suitable habitat. The Appropriate Assessment involves assessment of the information in the NIS and all other relevant data including the habitats within CN86193, the historical records, NBDC and IWEBS records, the structure and level of disturbance. It was determined that although the project area falls into the core foraging range for GWFG, that given the lack of local records (NBDC, IWEBS 2022), noting that the project is not on or adjacent to an IWEBS site, the field size, edge effect, lack of aquatic zone, the value of the project area was sub-optimal and the approval of CN86193 would not adversely affect the conservation objectives of Ballykenny-Fisherstown Bog SPA 004101. This was documented in the AAD where it stated "The basis for this AA Determination is as follows:

- The project area is not located within a European site
- The project area has no direct downstream hydrological connection to any European site via an aquatic zone
- The project is not a known foraging site for site loyal A395 Greenland White-fronted Goose and is not located on suitable habitat given the high level of edge and lack of aquatic zone in proximity and lack of historical records"

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| <p>The appellant states “inclusion of mitigation against disturbance of GWFG is illogical”</p> <p>DAFM Ecology Response: This was included only as a precautionary condition but as outlined above it was determined the project site itself was not suitable habitat.</p> |
| <p>The appellant states “Some of the other mitigations of the AA are not sufficiently clear or precise”</p> <p>DAFM Ecology Response: Some of the mitigations outlined were extracted from the NIS. Other mitigations include those outlined in the Environmental Requirements for Afforestation, December 2016 (DAFM, 2016) and Forestry Standards Manual (DAFM, 2015). In relation to weather conditions, this is a precautionary measure and specific mitigation in relation to setbacks and water protection measures will ensure protection of water quality and aquatic habitats and species.</p> |
| <p>The appellant states “Semi-Natural Grassland Survey and NIS identifying lands as GS3 drt humid acid grassland”</p> <p>DAFM Ecology Response: The field survey for the NIS was on the 10th of November 2021 with further field survey on 27/1/22. The NIS noted that the area was heavily grazed and the accompanying photo shows a very short sward. A water hotspot (flush area) was identified in the Habitat map in the NIS. The supplementary ecology report noted that the grass was mowed and as such assessment was difficult and “only possible to assess species found along the margins of the plot where the grass had not been mowed.” It did record “Marsh Pea (<i>Lathyrus palustris</i>) was recorded along the margins of the field; a high-quality indicator species for the Annex I Habitat 6410. Seven positive indicator species were noted, including Meadowsweet (<i>Filipendula ulmaria</i>), Marsh Bedstraw (<i>Galium palustre</i>), Jointed Rush (<i>Juncus articulatus</i>), Devil's-bit Scabious (<i>Succisa pratensis</i>) and Lesser Spearwort (<i>Ranunculus flammula</i>), all visible only within the field margins. Tormentil (<i>Potentilla erecta</i>) and Purple Moor-grass (<i>Molinia caerulea</i>) were noted both within the grassland matrix and the field margins. A negative indicator species present within the project area is Spear thistle (<i>Cirsium vulgare</i>) but takes up less than a 20% cover of the habitat.” The supplementary ecology report concluded that the area should be excluded from planting.</p> <p>The Forest Service have agreed referral procedures with National Parks and Wildlife Service with mandatory referrals for afforestation where the project area or part thereof is within a SAC, SPA, National Park, NHA, pNHA or Nature Reserve or within a section of a Hen Harrier Ref Area (of High Likelihood of Nesting Areas, HLNAs) extending outside of the SPAs. All other circumstances are discretionary. It should be noted that the current application was assessed by an ecologist on behalf of the applicant and was assessed by an ecologist working on behalf of DAFM. The Irish Semi-natural Grassland Survey layer is available on the mapping system used by the Forest Service and where all or part of a project is covered by this layer, there is a mandatory referral to the Forest Service Ecology section. The application is then assessed by a DAFM ecologist or an ecologist working on behalf of DAFM.</p> |
| <p>The appellant states “hedgerow setback is inadequate and use of setbacks in ABEs “</p> <p>DAFM Ecology Response: The Environmental Requirements for Afforestation (2016) outlines the required setbacks for hedgerows with further details in Section 2.5.4. The recommended setback for hedgerows is 5m but it is not a requirement. Hedgerows must be retained and may be enhanced by either a setback or broadleaf planting adjoining.</p> |

Areas for Biodiversity Enhancement (see section 2.5.2 of Environmental Requirements for Afforestation 2016) area comprised of environmental setbacks, future operational areas and retained habitats. A future operational area is an open space left unplanted in order to facilitate the future management of the plantation (e.g. a rideline) or to accommodate future infrastructure (e.g. a forest road or landing bay). In addition to their primary management function, these operational areas are also important biodiversity features in their own right, and this value can be enhanced further through simple design and additional planting. Table 3 outlines site features and eligibility for ABEs and Section 2.5.3 identifies the ABE eligibility criteria.

Signed: Saoirse O'Donoghue

Date: 18 May 2022

References

- *Environmental Requirements for Afforestation*, December 2016 (DAFM, 2016)
- *Forestry Standards Manual* (DAFM, 2015)
- *Foraging flight distances of wintering ducks and geese: a review. Avian Conservation and Ecology* 9(2): 2. (Johnson, W. P., P. M. Schmidt, and D. P. Taylor. 2014).
- *Assessing Connectivity with Special Protection Areas (SPAs)- Guidance.* (Scottish Natural Heritage, 2016)
- *Managing grassland for wild geese in Britain: a review.* *Biological Conservation* 89(1):93-106. [http://dx.doi.org/10.1016/S0006-3207\(98\)00134-7](http://dx.doi.org/10.1016/S0006-3207(98)00134-7). (Vickery, J. A., and J. A. Gill. 1999.)

DAFM Ecologists Response to Appeal FAC 023/2022 [CN86193]

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| FAC Reference | FAC 023/2022 |
| File Reference | CN86193 |
| Scheme | Afforestation |
| Species proposed | GPC 3 |
| Area | 5.26 Ha |

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Grounds of appeal relevant to ecology are summarized and addressed below.

The appellant states:

"Firstly, there are streams leading to the Blacksticks river directly from this land and this type of forestry would cause concern for pollution from pesticides being used to control weeds. "

DAFM Ecology Response:

With the removal of plot 1 from the project area, there is no aquatic zone adjoining the project area. Appropriate silt and sediment mitigation will be adhered to utilising current best practice in addition to:

- *Environmental Requirements for Afforestation*, December 2016 (DAFM, 2016)
- *Forestry Standards Manual* (DAFM, 2015)

No operations will be undertaken where soils may be mobilised at times of Met Eireann Orange or Red weather warning events

The appellant states:

"Secondly, part of these lands is a floodplain of the Blacksticks river. "

DAFM Ecology Response:

Plot 1 has a Fluvial flood risk (1-in- 20 and 1-in-100 years events) to ca. 20m
With the removal of plot 1 from the project area, there is no aquatic zone adjoining the project area. Appropriate silt and sediment mitigation will be adhered to utilising current best practice in addition to:

- *Environmental Requirements for Afforestation*, December 2016 (DAFM, 2016)
- *Forestry Standards Manual* (DAFM, 2015)

No operations will be undertaken where soils may be mobilised at times of Orange or Red weather events

The appellant states:

"I also believe this land has a huge amount of protected species under the Wildlife act 1976 living on it and also a range of plants and mosses under the Flora (protection) order 2015. "

DAFM Ecology Response:

Plot 1 (0.74ha) will now be excluded following additional information provided 1/2/2022 by applicant concerning the likely presence of *Molinia* meadows (6410). It is not thought that the rest of the project area hosts HNV grasslands due to management and composition of GS4 habitat. Hedgerows and linear features to be retained. These are likely habitat for species such as Stoat, Hedgehog and Hare at present. Pine Martens and Squirrels are woodland species. There is no reason to believe there is Corncrake in the project area. Frogs are ubiquitous, set-backs from relevant watercourses and the exclusion of plot 1 adjacent to aquatic zone will ensure habitat in the area still promotes amphibians. There are no records for Annex II Bats within the project area. Bats tend to utilize landscape features to navigate and any linear features will be retained. There will be no removal of known Bat roosts and no additional lighting which may disturb foraging bats. The NIS does not provide information on presence of Corncrake in the immediate vicinity although there are NBDC records within the wider landscape.

Signed: Saoirse O'Donoghue

Date: 18 May 2022

References:

- *Environmental Requirements for Afforestation*, December 2016 (DAFM, 2016)
- *Forestry Standards Manual* (DAFM, 2015)

DAFM Ecologists Response to Appeal FAC 024/2022 [CN86193]

| | |
|------------------|---------------|
| FAC Reference | FAC 024/2022 |
| File Reference | CN86193 |
| Scheme | Afforestation |
| Species proposed | GPC 3 |
| Area | 5.26 Ha |

Afforestation application, CN86193, initially comprised 6.06ha in the townland of Beihy, County Leitrim. A Natura Impact Statement (NIS), dated 12/11/2021, was submitted and uploaded to iFORIS on the 1/12/2021 with additional information subsequently submitted and uploaded to iFORIS on the 1/2/2022. This additional information assessed part of the project area (approximately 0.62ha) as likely to contain Annex 1 habitat 6410: *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinia caerulea*) and recommended the area be left unplanted. Consequently Plot 1 was excluded from the application.

Grounds of appeal relevant to ecology are summarized and addressed below.

The appellant states:

✓ THE FALL OF THE WATER OF MY LAND COMES DOWN EACH SIDE OF SECTION 148-124 IF IT BLOCKS UP HOW WOULD I GET IN TO CLEAR THE DRAINS AND THE WHOLE FALL OF THE WATER GOES THROUGH SECTION 958 AND HEADS DOWN TO THE RIVER KNOWN LOCALLY AS THE BLACK STICKS, ALSO THE BLACK STICKS RIVER FLOOD IN WINTER TIME AND THERE IS PERCH, TROUT AND ROACH IN THAT RIVER AND I DON'T WANT TO BE HELD RESPONSIBLE FOR POLLUTION FROM THE TREES, ALSO THE BLACK STICKS CO-MEADOWS SHOULD NOT BE PLANTED OR FENCED. THIS PROPOSED FOREST WOULD CREATE A LOT OF VERMIN SUCH AS MINK, RATS AND FOX'S ALSO MAR-PIES AND GREY CROW'S. IT'S A PROBLEM ALL READY AS A FEW WEEKS AGO TWO PINE MARTINS KILLED A FLOCK OF HEN'S AND THAT THE SECOND ATTACK IN A SHORT TIME, WHAT WOULD A FOREST BE LIKE ALSO FOX'S ARE A PROBLEM WITH NEW BORN LAMB'S, IT WOULD BE A LOT WORSE WITH A FOREST THEY WOULD HAVE A HIDING PLACE TO EAT THEM

DAFM Ecology Response:

Plot 1 has a Fluvial flood risk (1-in-20 and 1-in-100 years events) to ca. 20m. With the removal of plot 1 from the project area, there is no aquatic zone adjoining the project area. Appropriate silt and sediment mitigation will be adhered to utilising current best practice in addition to:

- *Environmental Requirements for Afforestation*, December 2016 (DAFM, 2016)
- *Forestry Standards Manual* (DAFM, 2015)

No operations will be undertaken where soils may be mobilised at times of Orange or Red weather events

As per the terms *Vermin or Pests*, they are subjective.

The appellant states:

THE MINK HAVE ALL THE RABBITTS KILLED TOO, IT'S ALSO A JOB TO KEEP BEE HIVES SAFE FROM THE PINE MARTIN'S WHAT WOULD IT BE LIKE IF THERE WAS A FOREST ALSO IT WOULD BE IN THE BEES FLY-PATH, THE BADGER'S WOULD BE A PROBLEM TOO AND IF THEY WERE INFECTED THEY WOULD SPREAD T.B. THE FOREST WOULD BLOCK THE SUN OF HOUSE AND THE HOUSE TOO AND THEY'D HAVE NO VIEW EITHER, ALSO THE VERY NARROW ROAD WOULD NEVER DRY AS THE SUN WOULD NOT GET TO SHINE ON IT AND IT WOULD BE VERY DANGEROUS. THERE IS A SPRING WELL IN SECTION 958 AND ALSO IN SECTION 278. IT FLOODS AND IT WOULD POLLUTE THE STREAM AND KILL THE FISH AND LAST SUMMER LOTS OF PEOPLE FISHED IN THAT RIVER. ALSO THE PINE MARTIN IS A PROTECTED SPECIES BUT IF THERE WAS A FOREST THEY WOULD BREED AND AS IT IS THEY ARE ALREADY A PROBLEM BUT WITH A FOREST THEY WOULD BE A LOT WORSE. ALSO IT WOULD BE A GREAT HIDING PLACE FOR CRIMINAL'S.

DAFM Ecology Response:

Badger are protected by the Wildlife Act 1976 to 2018 and Wildlife Amendment Act 2000. It is an offence to hunt or injure a badger and also an offence to wilfully destroy or interfere with its breeding or resting place (sett). Pine Marten are protected as Annex V species under the EU Habitats Directive (92/43/EEC) species in addition to Wildlife Act 1976 to 2018 and Wildlife Amendment Act 2000. These issues with Mink or Badger are irrelevant to AA process. In relation to spring locations, none were noted.

Signed: Saoirse O'Donoghue

Date: 18 May 2022

References:

- *Environmental Requirements for Afforestation*, December 2016 (DAFM, 2016)
- *Forestry Standards Manual* (DAFM, 2015)

DAFM Ecologists response to appeal FAC 025/2022 [CN86193]

| | |
|------------------|---------------|
| FAC Reference | FAC 025/2022 |
| File Reference | CN86193 |
| Scheme | Afforestation |
| Species proposed | GPC 3 |
| Area | 5.26 Ha |

Afforestation application, CN86193, initially comprised 6.06ha in the townland of Beihy, County Leitrim. A Natura Impact Statement (NIS), dated 12/11/2021, was submitted and uploaded to iFORIS on the 1/12/2021 with additional information subsequently submitted and uploaded to iFORIS on the 1/2/2022. This additional information assessed part of the project area (approximately 0.62ha) as likely to contain Annex 1 habitat 6410: Molinia meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) and recommended the area be left unplanted. Consequently Plot 1 was excluded from the application.

Grounds of appeal relevant to ecology are summarised and addressed below.

The appellant states:

"A previous application had been made for an afforestation licence for the same parcel of Land (ON81189 FAC18712018 refers), which was granted by the DAFM.

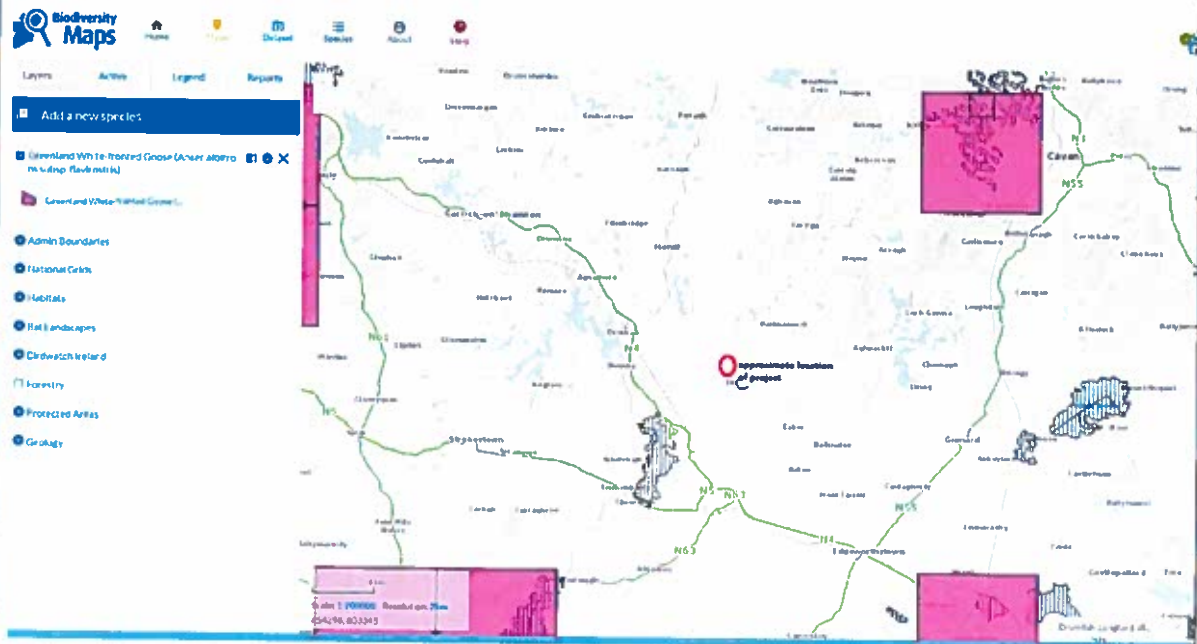
An oral appeal hearing against the granting of this licence was held on 25/2/20 and the decision was made by the Forestry Appeals Committee to cancel the decision of the Minister regarding licence CN81 189.

The basis for this decision was that the proposed site is 6.9km in distance from Ballykenny-Fisherstown Bog SPA. The qualifying interest for this SPA is the Greenland white fronted Goose. This species has a foraging range of 8km - The proposed site is located within this range"

DAFM Ecology Response:

The project is located ca. 6.8km to the west of the European site across the N4. This is the upper end of the core foraging distance scale of 8km (DAFM Bird Foraging Table, vers. 6 Jan. 2020, Vickery et al. 1999, Johnson et al., 2014, SNH, 2016). The closest IWEBS sites are OF006 at Lough Forbes and Drumshanbo Lough OB012. There are no IWEBS GWFG records for either of these sites since 2010/11 at least. The last records for GWFG at the SPA was in 1990/91 (11 individuals), see Ballykenny-Fisherstown Bog SPA 004101 site synopsis <https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004101.pdf> for further information. Records are poor for the area. It is beyond the scope of the NIS to ascertain the numbers present within the core foraging distance of the SPA. NBDC records show no records for GWFG either on the project area or nearby. This is a strong indication of suitability (see fig 1 below for further information):

Fig. 1 NBDC (National Biodiversity Data Centre) Map showing records of GWFG in the vicinity of the project area and Ballykenny-Fisherstown Bog SPA 004101



NBDC records shown above date back to the Bird Atlas 2007-2011 using both roving and tetrad visits at Lough Oughter SPA 004049, Garriskil Bog SPA 004102 and Lough Iron SPA 004046 and to the south-west of map at Lough Ree SPA 004064.

Though the NIS points out that there is suitable habitat for the GWFG within the project area, this is based on the pretext that plot 1 is included, as it is beside an aquatic zone and contains grassland. Now plot 1 is excluded. Although grassland is present throughout the site, this does not automatically correlate to suitable habitat. Upon critical evaluation of the potential value of the property to foraging GWFG, utilising experience and judgement to determine the relative value of the property in terms of habitat, historical records (NBDC, IWEBS records), structure and level of disturbance, it is determined that although the project area falls into the core foraging range for GWFG, that given the lack of local records (NBDC, IWEBS, NPWS), noting that the project is not on or adjacent to an IWEBS site, the field size, edge effect, lack of aquatic zone, the value of the project area was sub-optimal and of no real benefit to the restoration of the favourable conservation condition " as per conservation objectives of Ballykenny-Fisherstown Bog SPA 004101 and as such the proposed development would not impact a population of GWFG that may as some point in the future, by some miracle, choose to populate the general vicinity. This critical evaluation was not applied by the Ecologist who completed the NIS. The AAD states:

"The basis for this AA Determination is as follows:

- The project area is not located within a European site
- The project area has no direct downstream hydrological connection to any European site via an aquatic zone
- The project is not a known foraging site for site loyal A395 Greenland White-fronted Goose and is not located on suitable habitat given the high level of edge and lack of aquatic zone in proximity and lack of historical records"

The appellant states:

“Concerns also remain about the potential increase in rodent wildlife due to the forestry plantation, and other wildlife that can carry an infectious communicable disease, such as the badger population and wildlife that pose a threat to domestic pets and poultry such as pine martens and mink. Increased rodent wildlife in the form of field mice and rats, have a propensity to invade properties during winter months seeking shelter and warmth. A natural increase in rodent habitat caused by the plantation, will have a knock-on effect on infestations in the locality. Increases in this type of wildlife, also will attract hunters such as foxes, again which pose threats to domestic animals and poultry. “

DAFM Ecology Response:

As per the terms *Vermin or Pests*, they are subjective.

Badger are protected by the Wildlife Act 1976 to 2018 and Wildlife Amendment Act 2000. It is an offence to hunt or injure a badger and also an offence to wilfully destroy or interfere with its breeding or resting place (sett). Pine Marten are protected as Annex V species under the EU Habitats Directive (92/43/EEC) species in addition to Wildlife Act 1976 to 2018 and Wildlife Amendment Act 2000. These issues with Mink or Badger are irrelevant to AA process as they are not covered by the Habitats Directive.

The appellant states:

“The proposed site is subject to flooding and runoffs from the proposed site flows into the Black River which is a tributary of The Rinn River Natural Heritage Area which has not been mentioned on the Afforestation Proposed Details. The Black River therefore forms a hydrological connection between part of the site, and the Rinn River Natural Heritage Area. “

DAFM Ecology Response:

Plot 1 has a Fluvial flood risk (1-in- 20 and 1-in-100 years events) to ca. 20m
With the removal of plot 1 from the project area, there is no aquatic zone adjoining the project area. Appropriate silt and sediment mitigation will be adhered to utilising current best practice in addition to:

- *Environmental Requirements for Afforestation*, December 2016 (DAFM, 2016)
- *Forestry Standards Manual* (DAFM, 2015)

No operations will be undertaken where soils may be mobilised at times of Met Eireann Orange or Red weather events

The appellant states:

“The Leitrim County development Plan 2015 - 2021 which outlines, SPA's, Wildlife and areas of natural beauty which borders this application. These include Rinn River, Lough Forbes and Ballykenny - Fisherstown Bog all natural habitats of protected wildfowl species such as the White Fronted Greenland Goose. “

DAFM Ecology Response:

Plot 1 has a Fluvial flood risk (1-in- 20 and 1-in-100 years events) to ca. 20m
With the removal of plot 1 from the project area, there is no aquatic zone adjoining the project area. Appropriate silt and sediment mitigation will be adhered to utilising current best practice in addition to:

- *Environmental Requirements for Afforestation*, December 2016 (DAFM, 2016)
- *Forestry Standards Manual* (DAFM, 2015)

No operations will be undertaken where soils may be mobilised at times of Met Eireann Orange or Red weather events

Signed: Saoirse O'Donoghue

Date: 18 May 2022

References

- *Environmental Requirements for Afforestation*, December 2016 (DAFM, 2016)
- *Forestry Standards Manual* (DAFM, 2015)
- *Foraging flight distances of wintering ducks and geese: a review. Avian Conservation and Ecology* 9(2): 2. (Johnson, W. P., P. M. Schmidt, and D. P. Taylor. 2014).
- *Assessing Connectivity with Special Protection Areas (SPAs)- Guidance.* (Scottish Natural Heritage, 2016)
- *Managing grassland for wild geese in Britain: a review.* *Biological Conservation* 89(1):93-106. [http://dx.doi.org/10.1016/S0006-3207\(98\)00134-7](http://dx.doi.org/10.1016/S0006-3207(98)00134-7). (Vickery, J. A., and J. A. Gill. 1999.)



Forestry Division Statement to the Forestry Appeal Committee

| | |
|------------------|---------------|
| FAC Reference | FAC022/2022 |
| File Reference | CN86193 |
| Scheme | Afforestation |
| Species proposed | GPC 3 |
| Approved Area | 5.26 hectares |

Summary of application:

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|---|--|
| Date Submitted | 27/04/2020 |
| Site Notice Date | 29/04/2020 |
| Date Application Advertised | 22/05/2020 |
| Date Advertised for 2 nd Public Consultation | 12/01/2022 |
| Referrals to referral bodies | An Taisce 27/05/2020 – No reply Longford County Council 27/05/2020 – Reply received 09/06/2020 Leitrim County Council 27/05/2020 – No reply Leitrim County Council Development Plan 2015-2021 (Environmental Report on the Strategic Environmental Assessment) Scan 19/06/2020 |
| Referral to Archaeology | Report 21/10/2020 – Agreed with National Monuments Service 23/10/2020 |
| Referral to Ecology | Natura Impact Statement by Emily Fair – 12/11/2021, submitted on behalf of applicant Appropriate Assessment Pre-Screening Report by Emily Fair – 12/11/2021, submitted on behalf of applicant Additional Information by Emily Fair (East Plot) – (scan 01/02/2022) Appropriate Assessment Screening Determination – 09/02/2022 by Saoirse O’Donoghue of North West Ecology Ltd., on behalf of DAFM Appropriate Assessment Determination – 14/02/2022 by Saoirse O’Donoghue of North West Ecology Ltd., on behalf of DAFM |

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|---|--|
| Date referred to Inspector | 28/05/2020 - Certified 15/02/2022 17/02/2022 - Certified 11/03/2022 Inspect at 1 st Instalment |
| Desk Assessment/Desk & Field Assessment | Desk Assessment |
| Submissions Received | 42 Submissions received – 26/05/2020 x 10*, 27/05/2020 x 4, 28/05/2020 x 7, 29/05/2020 x 16, 02/06/2020 x 2, 04/06/2020 x 1, 05/06/2020 x 1, 10/06/2020 x 1, (Re: 26/05/2020 x 10 above* - One submission received in full on 19/06/2020 was not counted on 19/06/2020 as it was already included on 26/05/2020 as initial submission was received then and acknowledged at that time.) (One submission received on 29/05/2020 was not included in the figure above as it was withdrawn on 04/06/2020 by the submitter.) |
| Appropriate Assessment Screening | Natura Sites 1,2,3,4, Screen Out: No likelihood of a significant effect on any European sites. (See Ecology above) |
| Recommendation from Inspector | Approve with conditions |
| Decision | The afforestation project and all associated operations shall be carried out and completed in accordance with the measures set out in the Environmental Requirements for Afforestation and the Forestry Standards Manual (as amended by periodic Circulars). Reason: In the interest of clarity and to ensure good forest practice and the protection of the environment. All existing trees and hedgerows within the site shall be retained. Reason: In the interests of protecting the character of the landscape and the protection of the environment, in particular, habitats for flora and fauna. Adhere to the mitigation measures set out in the attached Appropriate Assessment Determination, dated 14/02/2022. Reason: In the interests of protection of the environment, in particular the protection of European Site(s). Condition: A setback with a minimum width of 60 metres shall be installed from the dwelling houses at ITM Easting: 613826 Northing: 786753, ITM Easting: 614089 Northing: 786813 & ITM Easting: 614083 Northing: 786849 in accordance with Table 5 and Table 6 of the Environmental Requirements for Afforestation. Five rows of broadleaves of mixed broadleaves of native species suited to the immediate site (Hawthorn, Hazel, Birch, rowan, willow, oak where appropriate to be planted at 60m setback |

| | |
|--------------------------|--|
| | <p>Reason: To protect the visual and residential amenities of property in the vicinity, to prevent encroachment and isolation, the blocking of light and the curtailment of views in relation to dwellings and associated buildings.</p> <p>Condition: An unplanted public road setback of a minimum width of 10 metres (as measured from the surfaced edge of the public road) and accompanied by a 10 metre wide strip of mixed broadleaves of native species suited to the immediate site (Hawthorn, Hazel, Birch, rowan, willow, oak where appropriate to be planted at 10 metre set back in all conifer plots adjoining a public road, in accordance with Tables 5 and 6 of the Environmental Requirements for Afforestation.</p> <p>Reason: In the interests of visual amenity and the safety of vehicular traffic and pedestrians.</p> <p>Consult with Leitrim County Council prior to commencement of any work.</p> <p>The following specific archaeological requirements shall be fully complied with:</p> <p>a) A large archaeological setback / exclusion zone, as illustrated and measuring 60m in width N-S, i.e. adjacent to the road, and 30m in radius from the two marked potential centre points of the levelled ringfort (LE 038-003), is required to be established; and</p> <p>b) See attached archaeological report and illustrative map for further details.</p> <p>Reason: In order to safeguard the archaeological heritage on site and to ensure the identification, recording, further preservation and protection as appropriate, of any other archaeological remains (including low visibility or subsurface remains) that may exist within the site.</p> |
| Date Decision Issued | 14/03/2022 |
| Date Decision Advertised | 16/03/2022 |

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: 03/06/2022

Grounds of Appeal for CN86193 Belhy, Leitrim

Inspector's Certification error

A N/A response has been recorded to the statement "All changes to this proposal have been recorded in the previous screens. A plot has been omitted from the project, at a late stage, as a result of the project ecologist's follow up report. How can this response be considered valid?"

Appropriate Assessment is flawed

There is no AA Report; the AAD has predominantly relied on the NIS provided by the developer but has contradicted the findings of the project ecologist.

The AA is flawed because it has only considered disturbance activity associated with afforestation; it has failed to consider the loss of potential foraging habitat for Greenland White-fronted Geese (GWG).

The Conservation Objective of the SPA is: "To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA."

The NIS has identified the project lands as suitable foraging habitat for the birds.

"The project area is within the core foraging range of the Greenland White-fronted Goose (Anser albifrons flavirostris), which extends to an 8km range. The project area contains agricultural grassland, which is a foraging habitat for this species."

The AAD has stated that the lands are not suitable habitat for GWG.

"The project is not a known foraging site for site loyal A395 Greenland White-fronted Goose and is not located on suitable habitat given the high level of edge and lack of aquatic zone in proximity and lack of historical records"

What historical records were investigated?
How complete are the historical records?
How far back do they date?

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Restoration offers the potential that birds will need to use new sites or use historical sites.

Since the ecologist who conducted the NIS has actually visited the site it would seem reasonable to assume that she would be in a better position to make an assessment of the lands as suitable habitat rather than the ecologist who carried out the AA who did so without conducting a site visit.

A complete AA would require the identification of the amount of suitable foraging habitat available within the core foraging range of the SPA. This would need to be assessed in relation to the requirements of a restored population of GWG in the SPA. Only then can the potential impact of the loss of foraging habitat be properly assessed in the context of Article 6 (3).

"Avoid machinery operations during the wintering period of A395 Greenland White-fronted Goose in Ireland, which is October to April inclusive"

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This is mitigation against disturbance. DAFM's position on this mitigation is illogical. If the habitat is unsuitable for GWG how can they be disturbed? In acknowledging the possibility of disturbance DAFM is acknowledging the potential use of the site or environs. This means that the potential loss of, or impact on, foraging habitat also needs to be assessed and it has not been.

The mitigation measures have been chosen to minimise the possibility of any negative impacts from this project on the wintering habitat of the Greenland White-fronted Goose (*Anser albifrons flavirostris*). There is no mitigation for the possibility of the loss of potential foraging habitat within the core foraging range.

Some of the other mitigations of the AA are not sufficiently clear or precise.

"All operations will be done so in a very sensitive manner and follow strict hygiene/biosecurity measures as set out by guidelines from Forest Service".

There are no specific Forest Service hygiene / biosecurity guidelines. Where is this information to be found?

What does "in a very sensitive manner" mean in practice? How is it measurable? How can compliance be verified?

"No operations before, during and immediately after extreme weather events (wet or drought included) or at times when soils are saturated. Soils must be in suitable condition to withstand machinery with use of mats in areas of heavy wear".

How are 'extreme weather events' defined?

What is the scientific basis for using the undefined 'extreme weather events' as mitigation?

How long before such events should operations be suspended?

What is the scientific basis for suspending operations only when soils are saturated?

There is potential for the mobilisation of silt before soils become saturated.

How will compliance be evidenced?

The purpose of an AA is to protect Natura 2000 sites - how will this happen in practice if an AA is just seen as a paper exercise? Mitigation without evidence of mitigation gives no certainty of compliance.

The licence states;

"Adhere to the mitigation measures set out in the attached Appropriate Assessment Determination, dated 14/02/2022.

Reason: In the interests of protection of the environment, in particular the protection of European Site(s)."

An AAD is a very specific legal assessment of the potential impact on Natura 2000 sites; it is not a general ecological assessment. In combining the two the Forest Service is blurring the lines

between a legally required assessment and a general ecological assessment. This is not good practice.

Some of the mitigations in the AAD are not relevant to the screened in Natura 2000 sites.

"Where it is necessary to clear vegetation, it must be done outside of the bird nesting season (March to late-August inclusive)."

"Retain linear features, such as hedgerows with suitable set-backs (3m) which may act as wildlife corridors and/or habitats for avifauna."

How do these two conditions mitigate against an impact to the integrity of Natura 2000 sites?

There is a lack of consistency and precision in the AA. The requisite level of certainty cannot be assured.

Semi-Natural Grassland

The lands of the project area for part of Plot which was surveyed under the Irish Semi-Natural Grassland Survey (ISGS) and identified them as GS4 (Wet Grassland) with some Annex I habitat.

"The project area was surveyed as part of a larger site in the Irish Semi Natural Grasslands Survey (ISGS) of Leitrim in 2009 (ISGS site code 881 Beihy 16.2ha) and was found to be composed of both wet grasslands (GS4) and semi-improved wet grasslands (GSi4). Approximately 2.1ha or 13% of the ISGS site passed for presence of Molinia meadows (6410) and the ISGS site is considered one of the primary areas in the country for Molinia Meadows (6410). An additional memo submitted by applicant's Ecologist (1/2/2022), after a follow-up site visit suggests that plot 1 (0.74ha), to the east, is likely composed of Molinia meadows (6410), despite the time of year and incomplete Annex I vegetation survey data, this plot will now be excluded from afforestation and revised Bio Map was submitted 8/2/2022" AAD

The project ecologist, as a result of her field survey, identified the lands as GS3 in the NIS.

"The grassland is made up of dry humid acid grassland (GS3) with primarily poorly drained mineral soils."

This discrepancy needs to be explained.

The project ecologist's survey is significantly more recent than that of the ISGS – despite the discrepancy the Forest Service did not consider it worth seeking the input of the NPWS.

ISGS links to National and EU policy

"All Member States of the EU must ensure that their Rural Development Programmes (RDPS) prioritise the identification, support and maintenance of high nature value (HNV) farmland, and that they monitor any changes to the area of land covered by HNV farming (Sullivan et al. 2010). The EU's Common Agricultural Policy (CAP), which has recently been reformed, is of direct relevance to Irish semi-natural grasslands in that conservation of HNV farmland outside of

protected areas such as SACs depends mainly on programmes such as agri-environment and less-favoured-area schemes that operate under the CAP (EEA 2004).

All of the grasslands surveyed in the course of the ISGS – and indeed, all semi-natural grasslands under GS and GM in the Fossitt (2000) classification system – can be regarded as High Nature Value (HNV) grasslands; Annex I grasslands are a sub-set of HNV grasslands. As most of the grassland surveyed during the ISGS was located within farming systems, these may all be described as HNV farms; most would be classed as Type 1 HNV farmland, which is defined as that which has a high proportion of semi-natural vegetation (EEA 2004)."

Condition 36 of the State Aid Decision states;

The inappropriate afforestation of sensitive habitats such as peat lands and wetlands will be avoided, as well as the negative effects on areas of high ecological value including areas under high natural value farming.

How will the negative effects on HNVF be avoided by planting Sitka Spruce on GS3 grassland?

How will the ecological integrity of ISGS Site 881 be maintained if these lands are planted?

Setbacks inadequate

The 3m hedgerow setback applied is not adequate to ensure the long term viability of the hedgerows given the shading effects of Sitka Spruce. The BIOFOREST Report recommends a 7m setback to ensure that shading does not impact on these biodiversity features. Since the retention of linear features is included as mitigation in the AA it is clearly considered to be a significant issue. There is no scientific basis for the use of a 3m setback as being sufficient to ensure that they can continue to act as "wildlife corridors and/or habitats for avifauna".

Area identified for Biodiversity Enhancement is using required setbacks

DAFM and the Registered Forester need to provide justification for the use of required setbacks as Areas for Biodiversity Enhancement. How are these specific areas the 'Best' areas?

The original Area for Biodiversity Enhancement did not identify European Annex I grassland as being the best area for Biodiversity Enhancement before that plot was dropped from the project at a late stage.

The use of required setbacks for Biodiversity Enhancement is lazy and expedient on the part of the Applicant / Forester. It is bad practice and should not be accepted by DAFM.

The application indicates that there will be "woody weed removal", but the location, area and species have not been identified.

EIA Screening is deficient

There is no figure for % Forest Cover in the Townland 5 years ago

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EIA screening data is highly questionable as regards the accuracy of the 36.89% Forest Cover in the underlining (sic) waterbody. This contradicts the approximately 10% figure stated in the In-Combination Statement.

The EIA Screening has identified that there is a significant local issue with the percentage and type of forest cover in the locality but there is no evidence in the project documentation as to what the precise issue is, or how it has been addressed.

The AAD states that *"The project area is outside areas classified as high visual amenity or areas of outstanding natural beauty in Leitrim CDP 2015-21."* But the EIA Screening has identified the site as being in a High Amenity landscape. This discrepancy has not been addressed in the decision making process.

The NIS states;

"The Cloonageeher Bog NHA and the Rinn River NHA are over 6km west of the project area, and there are no pNHA sites within close proximity of the project area.", but in fact Cloonageeher Bog NHA is less than 3km to the West. This error was not identified by the Forest Service.

According to the EIA Screening this is a project in a High Amenity Landscape which has been referred to Archaeology and Ecology; it is within 3 km upstream of an (unidentified) designated site; there is a significant local issue with % Forest Cover but an EIA is not required.

Given the contradictions and errors we would contend that the EIA Screening Determination cannot be relied upon.

Conclusion

The assessment of this project involves a series of errors, inconsistencies and uncertainties and the awarding of the licence is not consistent with good practice, the conditions of the State Aid Decision or the law.

Oral Hearing

would like to request an Oral Hearing of this case.

Forestry Appeals Committee

25 MAR 2022

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 |
| 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 | | Confirm recommendation to grant licence | | Revise conditions of licence | | Remit licence for reassessment | x | Revoke licence | |
|-----------|--|---|--|------------------------------|--|--------------------------------|---|----------------|--|

DAFM would like to point out that a significant error was identified after the decision was made in relation to some of the EIA outputs on Iforis. Percentage forest cover in the under lying waterbody was identified as 37% on 11th March 2022. This conflicts with the in-combination statement percentage forest cover at 10%. Due to this error DAFM requests the licence is remitted for a new EIA screening to be undertaken.

Name: Daniel Connaire

Role: Forestry Inspector

Date: 25/05/2022



Forestry Division Statement to the Forestry Appeal Committee

| | |
|------------------|---------------|
| FAC Reference | FAC023/2022 |
| File Reference | CN86193 |
| Scheme | Afforestation |
| Species proposed | GPC 3 |
| Approved Area | 5.26 hectares |

Summary of application:

| | |
|---|--|
| Date Submitted | 27/04/2020 |
| Site Notice Date | 29/04/2020 |
| Date Application Advertised | 22/05/2020 |
| Date Advertised for 2 nd Public Consultation | 12/01/2022 |
| Referrals to referral bodies | An Taisce 27/05/2020 – No reply Longford County Council 27/05/2020 – Reply received 09/06/2020 Leitrim County Council 27/05/2020 - No reply Leitrim County Council Development Plan 2015-2021 (Environmental Report on the Strategic Environmental Assessment) Scan 19/06/2020 |
| Referral to Archaeology | Report 21/10/2020 – Agreed with National Monuments Service 23/10/2020 |
| Referral to Ecology | Natura Impact Statement by Emily Fair – 12/11/2021, submitted on behalf of applicant Appropriate Assessment Pre-Screening Report by Emily Fair – 12/11/2021, submitted on behalf of applicant Additional Information by Emily Fair (East Plot) – (scan 01/02/2022) Appropriate Assessment Screening Determination – 09/02/2022 by Saoirse O’Donoghue of North West Ecology Ltd., on behalf of DAFM Appropriate Assessment Determination – 14/02/2022 by Saoirse O’Donoghue of North West Ecology Ltd., on behalf of DAFM |

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| Desk Assessment/Desk & Field Assessment | Desk Assessment |
| Submissions Received | 42 Submissions received – 26/05/2020 x 10*, 27/05/2020 x 4, 28/05/2020 x 7, 29/05/2020 x 16, 02/06/2020 x 2, 04/06/2020 x 1, 05/06/2020 x 1, 10/06/2020 x 1, (Re: 26/05/2020 x 10 above* - One submission received in full on 19/06/2020 was not counted on 19/06/2020 as it was already included on 26/05/2020 as initial submission was received then and acknowledged at that time.) (One submission received on 29/05/2020 was not included in the figure above as it was withdrawn on 04/06/2020 by the submitter.) |
| Appropriate Assessment Screening | Natura Sites 1,2,3,4, Screen Out: No likelihood of a significant effect on any European sites. (See Ecology above) |
| Recommendation from Inspector | Approve with conditions |
| Decision | The afforestation project and all associated operations shall be carried out and completed in accordance with the measures set out in the Environmental Requirements for Afforestation and the Forestry Standards Manual (as amended by periodic Circulars). Reason: In the interest of clarity and to ensure good forest practice and the protection of the environment. All existing trees and hedgerows within the site shall be retained. Reason: In the interests of protecting the character of the landscape and the protection of the environment, in particular, habitats for flora and fauna. Adhere to the mitigation measures set out in the attached Appropriate Assessment Determination, dated 14/02/2022. Reason: In the interests of protection of the environment, in particular the protection of European Site(s). Condition: A setback with a minimum width of 60 metres shall be installed from the dwelling houses at ITM Easting: 613826 Northing: 786753, ITM Easting: 614089 Northing: 786813 & ITM Easting: 614083 Northing: 786849 in accordance with Table 5 and Table 6 of the Environmental Requirements for Afforestation. Five rows of broadleaves of mixed broadleaves of native species suited to the immediate site ¿Hawthorn, Hazel, Birch, rowan, willow, oak where appropriate to be planted at 60m setback |

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| | <p>Reason: To protect the visual and residential amenities of property in the vicinity, to prevent encroachment and isolation, the blocking of light and the curtailment of views in relation to dwellings and associated buildings.</p> <p>Condition: An unplanted public road setback of a minimum width of 10 metres (as measured from the surfaced edge of the public road) and accompanied by a 10 metre wide strip of mixed broadleaves of native species suited to the immediate site (Hawthorn, Hazel, Birch, rowan, willow, oak where appropriate to be planted at 10 metre set back in all conifer plots adjoining a public road, in accordance with Tables 5 and 6 of the Environmental Requirements for Afforestation.</p> <p>Reason: In the interests of visual amenity and the safety of vehicular traffic and pedestrians.</p> <p>Consult with Leitrim County Council prior to commencement of any work.</p> <p>The following specific archaeological requirements shall be fully complied with:</p> <p>a) A large archaeological setback / exclusion zone, as illustrated and measuring 60m in width N-S, i.e. adjacent to the road, and 30m in radius from the two marked potential centre points of the levelled ringfort (LE 038-003), is required to be established; and</p> <p>b) See attached archaeological report and illustrative map for further details.</p> <p>Reason: In order to safeguard the archaeological heritage on site and to ensure the identification, recording, further preservation and protection as appropriate, of any other archaeological remains (including low visibility or subsurface remains) that may exist within the site.</p> |
| Date Decision Issued | 14/03/2022 |
| Date Decision Advertised | 16/03/2022 |

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: 03/06/2022

I would like to lodge planning objections to afforestation notification on lands at Beihy, Leitrim, (contract number CN86193)

I believe this sort of development would have a detrimental effect on our area in a number of ways. Firstly, there are streams leading to the Blacksticks river directly from this land and this type of forestry would cause concern for pollution from pesticides being used to control weeds.

Secondly, part of these lands is a floodplain of the Blacksticks river.

I also believe this land has a huge amount of protected species under the Wildlife act 1976 living on it and also a range of plants and mosses under the Flora (protection) order 2015.

This type of forestry will destroy the resting place of protected wildlife species and will cause huge disturbance to the breeding of Hares, Pine Martins, Hedgehogs, Red Squirrel, Frogs, Stoats etc.

This type of forestry will offer no cover for birds (Corncrake etc.) and will disturb bats and bees in their natural habitat.

Also, apart from any environmental point of view, I believe this to be a huge fire threat to people in the area as there are many houses and family's living next door to this land.

This type of forestry will overshadow houses, it will offer coverage for vermin, it will offer criminals a hiding ground, it will offer a place for people to illegally dump rubbish and also, if allowed, it will be setting a precedent in the area as there is no forestry of this type here already. We do not want to see green fields covered in trees in our area.

Lastly, I believe that this type of forestry will hinder or affect the provision of both broadband and phone signals in the area which in this day and age are vital for people working from home etc, and could lead to depopulation in the area.

As this land has previously had afforestation planning permission denied under licence number(contract number CN81189) We find it very disappointing that this application would even be considered.

Signed:

Forestry Appeals Committee

25 MAR 2027

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 |
| 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 type="checkbox"/> | Confirm recommendation to grant licence | <input type="checkbox"/> | Revise conditions of licence | <input type="checkbox"/> | Remit licence for reassessment | <input checked="" type="checkbox"/> | Revoke licence | <input type="checkbox"/> |
|-----------|--------------------------|---|--------------------------|------------------------------|--------------------------|--------------------------------|-------------------------------------|----------------|--------------------------|

DAFM would like to point out that a significant error was identified after the decision was made in relation to some of the EIA outputs on Iforis. Percentage forest cover in the underlying waterbody was identified as 37% on 11th March 2022. This conflicts with the in-combination statement percentage forest cover at 10%. Due to this error DAFM requests the licence is remitted for a new EIA screening to be undertaken.

Name: Daniel Connaire

Role: Forestry Inspector

Date: 25/05/2022



Forestry Division Statement to the Forestry Appeal Committee

| | |
|------------------|---------------|
| FAC Reference | FAC024/2022 |
| File Reference | CN86193 |
| Scheme | Afforestation |
| Species proposed | GPC 3 |
| Proposed Area | 5.26 hectares |

Summary of application:

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| Recommendation from Inspector | Approve with conditions |
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| | <p>Reason: To protect the visual and residential amenities of property in the vicinity, to prevent encroachment and isolation, the blocking of light and the curtailment of views in relation to dwellings and associated buildings.</p> <p>Condition: An unplanted public road setback of a minimum width of 10 metres (as measured from the surfaced edge of the public road) and accompanied by a 10 metre wide strip of mixed broadleaves of native species suited to the immediate site (Hawthorn, Hazel, Birch, rowan, willow, oak where appropriate to be planted at 10 metre set back in all conifer plots adjoining a public road, in accordance with Tables 5 and 6 of the Environmental Requirements for Afforestation.</p> <p>Reason: In the interests of visual amenity and the safety of vehicular traffic and pedestrians.</p> <p>Consult with Leitrim County Council prior to commencement of any work.</p> <p>The following specific archaeological requirements shall be fully complied with:</p> <p>a) A large archaeological setback / exclusion zone, as illustrated and measuring 60m in width N-S, i.e. adjacent to the road, and 30m in radius from the two marked potential centre points of the levelled ringfort (LE 038-003), is required to be established; and</p> <p>b) See attached archaeological report and illustrative map for further details.</p> <p>Reason: In order to safeguard the archaeological heritage on site and to ensure the identification, recording, further preservation and protection as appropriate, of any other archaeological remains (including low visibility or subsurface remains) that may exist within the site.</p> |
| Date Decision Issued | 14/03/2022 |
| Date Decision Advertised | 16/03/2022 |

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: 03/06/2022

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Please be advised that if you are attending the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois, R32 DW5 that CCTV is in operation for the security and safety of visitors and staff. More information is in the data protection section on the Office's website www.agriappeals.gov.ie.

14. Appellant's Grounds and Statement (additional pages may be included if required)

✓ THE FALL OF THE WATER OF MY LAND COMES DOWN EACH SIDE OF SECTION 148-124 IF IT BLOCKS UP HOW WOULD I GET IN TO CLEAR THE DRAINS AND THE WHOLE FALL OF THE WATER GOES THROUGH SECTION 958 AND HEADS DOWN TO THE RIVER KNOWN LOCALLY AS THE BLACK STICKS, ALSO THE BLACK STICKS RIVER FLOODS IN WINTER TIME AND THERE IS PERCH, TROUT AND ROACH IN THAT RIVER AND I DON'T WANT TO BE HELD RESPONSIBLE FOR POLLUTION FROM THE TREES, ALSO THE BLACK STICKS CO-MEADOWS SHOULD NOT BE PLANTED OR FENCED. THIS PROPOSED FOREST WOULD CREATE A LOT OF VERMIN SUCH AS MINK, RATS AND FOX'S ALSO MAGPIES AND GREY CROW'S. IT'S A PROBLEM ALL READY AS A FEW WEEKS AGO TWO PINE MARTIN'S KILLED A FLOCK OF HEN'S AND THAT THE SECOND ATTACK IN A SHORT TIME, WHAT WOULD A FOREST BE LIKE ALSO FOX'S ARE A PROBLEM WITH NEW BORN LAMB'S, IT WOULD BE A LOT WORSE WITH A FOREST THEY WOULD HAVE A HIDING PLACE TO EAT THEM

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: _____

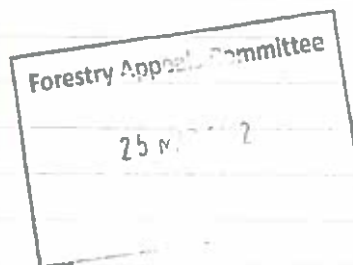
Date: 22 - 03 - 2022

2.

THE MINK HAVE ALL THE RABBITTS KILLED TOO, IT'S ALSO A JOB TO KEEP BEE HIVES SAFE FROM THE PINE MARTIN'S WHAT WOULD IT BE LIKE IF THERE WAS A FOREST ALSO IT WOULD BE IN THE BEES FLY-PATH, THE BADGER'S WOULD BE A PROBLEM TOO AND IF THEY WERE INFECTED THEY WOULD SPREAD T.B.. THE FOREST WOULD BLOCK THE SUN OF

HOUSE AND THE HOUSE TOO AND THEY'D HAVE NO VIEW EITHER, ALSO THE VERY NARROW ROAD WOULD NEVER DRY AS THE SUN WOULD NOT GET TO SHINE ON IT AND IT WOULD BE VERY DANGEROUS. THERE IS A SPRING WELL IN SECTION 958 AND ALSO IN SECTION 278, IT FLOODS AND IT WOULD POLLUTE THE STREAM AND KILL THE FISH AND LAST SUMMER LOTS OF PEOPLE FISHED IN THAT RIVER. ALSO THE PINE MARTIN IS A PROTECTED SPECIES, BUT IF THERE WAS A FOREST THEY WOULD BREED AND AS IT IS THEY ARE ALREADY A PROBLEM BUT WITH A FOREST THEY WOULD BE A LOT WORSE.

ALSO IT WOULD BE A GREAT HIDING PLACE FOR CRIMINAL'S.



THANKING YOU,
YOURS SINCERELY,

22-03-2022

P.S.

I HAVE A LOVELY BUILDING SITE BESIDE HOUSE, A FORESTRY WOULD DE-VALUE IT.

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 |
| 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 | | Confirm recommendation to grant licence | | Revise conditions of licence | | Remit licence for reassessment | x | Revoke licence | |
|-----------|--|---|--|------------------------------|--|--------------------------------|---|----------------|--|

DAFM would like to point out that a significant error was identified after the decision was made in relation to some of the EIA outputs on Iforis. Percentage forest cover in the under lying waterbody was identified as 37% on 11th March 2022. This conflicts with the in-combination statement percentage forest cover at 10%. Due to this error DAFM requests the licence is remitted for a new EIA screening to be undertaken.

Name: Daniel Connaire

Role: Forestry Inspector

Date: 25/05/2022



Forestry Division Statement to the Forestry Appeal Committee

| | |
|------------------|---------------|
| FAC Reference | FAC025/2022 |
| File Reference | CN86193 |
| Scheme | Afforestation |
| Species proposed | GPC 3 |
| Approved Area | 5.26 hectares |

Summary of application:

| | |
|---|--|
| Date Submitted | 27/04/2020 |
| Site Notice Date | 29/04/2020 |
| Date Application Advertised | 22/05/2020 |
| Date Advertised for 2 nd Public Consultation | 12/01/2022 |
| Referrals to referral bodies | An Taisce 27/05/2020 – No reply Longford County Council 27/05/2020 – Reply received 09/06/2020 Leitrim County Council 27/05/2020 – No reply Leitrim County Council Development Plan 2015-2021 (Environmental Report on the Strategic Environmental Assessment) Scan 19/06/2020 |
| Referral to Archaeology | Report 21/10/2020 – Agreed with National Monuments Service 23/10/2020 |
| Referral to Ecology | Natura Impact Statement by Emily Fair - 12/11/2021, submitted on behalf of applicant Appropriate Assessment Pre-Screening Report by Emily Fair – 12/11/2021, submitted on behalf of applicant Additional Information by Emily Fair (East Plot) – (scan 01/02/2022) Appropriate Assessment Screening Determination – 09/02/2022 by Saoirse O’Donoghue of North West Ecology Ltd., on behalf of DAFM Appropriate Assessment Determination – 14/02/2022 by Saoirse O’Donoghue of North West Ecology Ltd., on behalf of DAFM |

| | |
|---|--|
| Date referred to Inspector | 28/05/2020 - Certified 15/02/2022 17/02/2022 - Certified 11/03/2022 Inspect at 1 st Instalment |
| Desk Assessment/Desk & Field Assessment | Desk Assessment |
| Submissions Received | 42 Submissions received – 26/05/2020 x 10*, 27/05/2020 x 4, 28/05/2020 x 7, 29/05/2020 x 16, 02/06/2020 x 2, 04/06/2020 x 1, 05/06/2020 x 1, 10/06/2020 x 1, (Re: 26/05/2020 x 10 above * - One submission received in full on 19/06/2020 was not counted on 19/06/2020 as it was already included on 26/05/2020 as initial submission was received then and acknowledged at that time.) (One submission received on 29/05/2020 was not included in the figure above as it was withdrawn on 04/06/2020 by the submitter.) |
| Appropriate Assessment Screening | Natura Sites 1,2,3,4, Screen Out: No likelihood of a significant effect on any European sites. (See Ecology above) |
| Recommendation from Inspector | Approve with conditions |
| Decision | The afforestation project and all associated operations shall be carried out and completed in accordance with the measures set out in the Environmental Requirements for Afforestation and the Forestry Standards Manual (as amended by periodic Circulars). Reason: In the interest of clarity and to ensure good forest practice and the protection of the environment. All existing trees and hedgerows within the site shall be retained. Reason: In the interests of protecting the character of the landscape and the protection of the environment, in particular, habitats for flora and fauna. Adhere to the mitigation measures set out in the attached Appropriate Assessment Determination, dated 14/02/2022. Reason: In the interests of protection of the environment, in particular the protection of European Site(s). Condition: A setback with a minimum width of 60 metres shall be installed from the dwelling houses at ITM Easting: 613826 Northing: 786753, ITM Easting: 614089 Northing: 786813 & ITM Easting: 614083 Northing: 786849 in accordance with Table 5 and Table 6 of the Environmental Requirements for Afforestation. Five rows of broadleaves of mixed broadleaves of native species suited to the immediate site ç Hawthorn, Hazel, Birch, rowan, willow, oak where appropriate to be planted at 60m setback |

| | |
|--------------------------|--|
| | <p>Reason: To protect the visual and residential amenities of property in the vicinity, to prevent encroachment and isolation, the blocking of light and the curtailment of views in relation to dwellings and associated buildings.</p> <p>Condition: An unplanted public road setback of a minimum width of 10 metres (as measured from the surfaced edge of the public road) and accompanied by a 10 metre wide strip of mixed broadleaves of native species suited to the immediate site (Hawthorn, Hazel, Birch, rowan, willow, oak where appropriate to be planted at 10 metre set back in all conifer plots adjoining a public road, in accordance with Tables 5 and 6 of the Environmental Requirements for Afforestation.</p> <p>Reason: In the interests of visual amenity and the safety of vehicular traffic and pedestrians.</p> <p>Consult with Leitrim County Council prior to commencement of any work.</p> <p>The following specific archaeological requirements shall be fully complied with:</p> <p>a) A large archaeological setback / exclusion zone, as illustrated and measuring 60m in width N-S, i.e. adjacent to the road, and 30m in radius from the two marked potential centre points of the levelled ringfort (LE 038-003), is required to be established; and</p> <p>b) See attached archaeological report and illustrative map for further details.</p> <p>Reason: In order to safeguard the archaeological heritage on site and to ensure the identification, recording, further preservation and protection as appropriate, of any other archaeological remains (including low visibility or subsurface remains) that may exist within the site.</p> |
| Date Decision Issued | 14/03/2022 |
| Date Decision Advertised | 16/03/2022 |

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: 03/06/2022

23/03/22

Forestry Appeals Committee,
Agriculture Appeals Office,
Kilminchy Court,
Portlaoise,
Co. Laois,
R32 DTW5

Forestry Appeals Committee

25 MAR 2022

Ref: CN86193, Beihy, Leitrim

Re: Appeal Submission in Respect of Grant of Afforestation Licence
Application No CN 86193 at Beihy, Leitrim.

Dear Sir/Madam,

I wish to lodge a submission against the granting of the above afforestation licence.

A previous application had been made for an afforestation licence for the same parcel of Land (CN81189 FAC187/2018 refers), which was granted by the DAFM.

An oral appeal hearing against the granting of this licence was held on 25/2/20 and the decision was made by the Forestry Appeals Committee to cancel the decision of the Minister regarding licence CN81189.

The basis for this decision was that the proposed site is 6.9km in distance from Ballykenny-Fisherstown Bog SPA. The qualifying interest for this SPA is the Greenland white fronted Goose. This species has a foraging range of 8km – The proposed site is located within this range.

With respect to the totality of the application, it is pointed out that no consultation took place with any residents in the area, nor any other landowners concerning the proposed development, by any party engaged in this commercial enterprise. It is also noted that the property owner on which the plantation is proposed, does not live in the immediate vicinity of the plantation, and therefore the amenity of his own property will not be negatively affected by the plantation. No environmental impact reports or any other type of supporting documentation has been provided by any party to this commercial plantation.

I believe that the provision of an environmental impact assessment should have to be sought

by the Minister from the applicants, even if it is a sub-threshold development as defined in the Regulations. The concerns raised would meet any objective threshold under Regulation 13(2)(c) of the Forestry Regulations 2017 (SI 191/17 refers) and in particular the matters listed at 1(a), (e), (f) and (g) and at 2(a) in schedule 3 of those regulations, to seek an EIS. This proposition has previously been advanced and rejected, however, it remains a valid concern worthy of further consideration.

In terms of the Ballykenny-Fisherstown Bog SPA, it is a Natura 2000 site which is 6.9km distant from the proposed site for afforestation.

Article 6(3) of the Habitats Directive states:

'Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.'

The successful appeal against the granting of an afforestation licence to this same site in 2020, referenced the lack of documentation supplied by the DAFM regarding the 'screening' of the proposed site and other projects which may impact on the SPA. It is unclear whether any 'screening' or assessment was undertaken by DAFM in this latest application, as required by the Habitats Directive and if so, a copy of the screening or impact assessment should have been supplied for my consideration. It remains the case, that if this has not been completed, the granting of an afforestation licence may be breaching the terms of the E.U. Habitats Directive which was transposed into Irish law by virtue of the European Communities (Natural Habitats) Regulations 1997.

Aside from the foregoing the focus of the objection, is still the risk to life and property arising from a fire in the plantation notwithstanding the proposed plantation 'setbacks' from the property. (It still also remains the case that we have not been supplied with any maps delineating this setback area. It is also unclear as to whether this 60 meter area is to be calculated from the dwelling or from the boundary line of the site) This fire risk will place an additional burden on home and landowners in the vicinity of this forestry, to insure against this type of risk and has potential to cause loss of life.

Hurricane weather in this country, has also caused loss of life due to fallen trees, and again the risk to people and property is greatly increased by the proximity of the plantation to properties in the area. It should also be noted that the main ESB overhead wires from Mohill Sub-Station to properties in the area either run through or directly adjoin the plantation site, adding a further risk in the event of fallen trees. An additional but no less serious risk arises from debris from the trees, in a storm situation, which have the potential to damage vehicles and property and electricity supply in the area.

The enjoyment of dwellings in the area will be greatly diminished as a result of this plantation, which will cast a shadow over the area. It should also be noted that the land parcel at 489, rises away from the ~~thereby increasing~~ the natural finished growth height of the trees proposed by a further two to three meters. This additional height also adds to concerns about the sunlight and periods of sunlight

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available to our property at various stages of the year, which will seriously impact on the enjoyment of the use of one's own property and gardens. This also has the potential to impact on the valuation and saleability of properties in the immediate vicinity. It is noted that the plantation set back is proposed at 60 meters from the property which is adjudged to 'significantly ameliorate' the impact to the residential amenity of my property. The term 'ameliorate' by its dictionary definition is to make something bad or unsavoury somewhat better. There is a tacit implication therefore in the use of the term, in the letter dated the 27th February 2020, from the FAC, that the afforestation in the area will have a detrimental impact on the amenity of the properties in the area. The only form of 'amelioration' acceptable in this instance is the cancelling of the afforestation licence.

I note that 20% of the plantation is to be deciduous in nature. It is not clear where this 20% is to be planted and again, we would re-iterate that all the plantation whether deciduous or coniferous in nature, has the propensity to increase the levels of pine and leaf litter in the vicinity of the planting. This fact increases the potential for debris from this commercial plantation being blown into adjoining private properties, with associated clean-up costs.

I also reference Leitrim County Councils development plan which considers the negative impact of coniferous plantations as follows :

'Much of the plantings have been of Norse evergreens, which have the potential to increase acidity levels in watercourses, with consequential adverse effects on fishing stocks. Such planting schemes can also lead to a loss in biodiversity, an adverse impact on the character of the landscape, social isolation and damage to public roads'. P116.

Source : https://www.leitrimcoco.ie/eng/Services_A-Z/Planning-and-Development/Development-Plans/County-Development-Plan-2015-2021/County_Development_Plan_2015-2021/Environmental-Report-on-the-Strategic-Environmental-Assessment.pdf

Concerns also remain about the potential increase in rodent wildlife due to the forestry plantation, and other wildlife that can carry an infectious communicable disease, such as the badger population and wildlife that pose a threat to domestic pets and poultry such as pine martens and mink. Increased rodent wildlife in the form of field mice and rats, have a propensity to invade properties during winter months seeking shelter and warmth. A natural increase in rodent habitat caused by the plantation, will have a knock-on effect on infestations in the locality. Increases in this type of wildlife, also will attract hunters such as foxes, again which pose threats to domestic animals and poultry.

The area in which it is proposed to plant the commercial forestry, while classed as rural, is predominantly residential in nature and the immediate vicinity of the plantation directly affects nine properties, not to mention other land owners and the proposed plantation is not in keeping with the nature of the area in which it is proposed.

To summarise, this plantation has the potential to cost local residents in terms of substantial loss of amenity of their properties and unacceptable increased financial, and hazard costs.

It also appears to be prejudicial against the homeowners in the area that a decision can be made by the FAC to cancel a decision made by the Minister regarding the granting of a licence on the 25/2/20 (CN81189) and then an new application can be submitted for the same parcel of land (CN86193) on the 22/5/20 as published on your website.

Forestry Appeals Cor

25 MAR 2

The spraying of plantations by chemicals such as cypermethrin, a highly toxic insecticide can be harmful to humans and animals. Residents in neighbouring parishes have been asked to remain indoors during the spraying of cypermethrin due to its harmful effects. Insecticides also have the propensity to enter streams and watercourses, thereby affecting wildlife.

The proposed site is subject to flooding and runoffs from the proposed site flows into the Black River which is a tributary of The Rinn River Natural Heritage Area which has not been mentioned on the Afforestation Proposed Details. The Black River therefore forms a hydrological connection between part of the site, and the Rinn River Natural Heritage Area.

The Leitrim County development Plan 2015 – 2021 which outlines, SPA's, Wildlife and areas of natural beauty which borders this application. These include Rinn River, Lough Forbes and Ballykenny – Fisherstown Bog all natural habitats of protected wildfowl species such as the White Fronted Greenland Goose.

There has also been a gross and inexcusable delay in the consideration of this matter at the DAFM as new regulations have been introduced in the interim period which introduced a €200 euro fee for appellants. I fail to see how the DAFM took nearly two years to make a determination on the matter which is now the subject of a second appeal.

Accordingly, I have grave reservations regarding the granting of this application and remain opposed to same.

Yours Sincerely

23/3/22

PS : All of the references legislation and documentation are available online and therefore are not supplied with this application due to (1) the cost associated with printing and posting such documentation and (2) the environmental impact of so doing. It is noted that there is no electronic method of submission to FAC, and in addition to the new €200 euro fee, which is enclosed, places an additional economic burden on legitimate appellants, which is grossly unfair. The shortened appeal timeframe from 28 days to 14 days, in addition to postage delays are also prejudicial to appellants.



