

Coogan, Mary

From: Coogan, Mary
Sent: Thursday 23 June 2022 16:25
To: forestry agriappeals
Cc: OBrien, MichaelG; Forestry Support Unit; Coogan, Mary; Dineen, Keith; OHalloran, Donna
Subject: DAFM Statement FAC004/2022 CN86739
Attachments: CN86739 DAFM Statement FAC 004-2022.docx

Please note that DAFM Statement FAC004/2022 CN86739 has 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.

- Assessment to Determine EIA Requirement
- AA Determination Report – 05/01/2022
- AA Report - 18/10/2021
- AA Screening

These documents are on the Forestry Licence Viewer.

Regards,

Mary Coogan,

Forestry Support Unit.

Mary Coogan

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

An Roinn Talmhaíochta, Bia agus Mara

Department of Agriculture, Food and Marine

Eastát Chaisleán Sheonach, Contae Loch Gorman, Y35 PN52

Johnstown Castle Estate, Co. Wexford, Y35 PN52

+353 (0)53 9170357

mary.coogan@agriculture.gov.ie

www.agriculture.gov.ie +353 (0)761 064415



Forestry Division Statement to the Forestry Appeal Committee

FAC Reference	FAC004/2022
File Reference	CN86739
Scheme	Afforestation
Species proposed	GPC 3
Approved Area	29 hectares

Summary of application:

Date Submitted	29/06/2020
Site Notice Date	23/06/2020
Date Application Advertised	03/07/2020
Date Advertised for 2 nd Public Consultation	10/11/2021
Referrals to referral bodies	Shannon Region Fisheries Board 02/07/2020 – Inland Fisheries Ireland Reply 23/07/2020 Tipperary County Council Planning Department 02/07/2020 - No reply National Parks & Wildlife Service 03/07/2020 - Reply 09/08/2020 (Sun 19.52pm)
Referral to Ecology	[Previous report dates: AA Screening Determination 21/01/2021, AAR 25/01/2021 and AAD 25/01/2021] (FAC047/2021 Set Aside + Remit) Appropriate Assessment Screening Determination 18/10/2021 by Jean Hamilton & Keith Dineen of Fehily Timoney & Company on behalf of DAFM, Reviewed by Donna O'Halloran of Fehily Timoney & Company on behalf of DAFM. Appropriate Assessment Report 18/10/2021 by Jean Hamilton & Keith Dineen of Fehily Timoney & Company on behalf of DAFM, Reviewed by Donna O'Halloran of Fehily Timoney & Company on behalf of DAFM. Appropriate Assessment Determination 05/01/2022 by Keith Dineen of Fehily Timoney & Company on behalf of DAFM, Reviewed by Donna O'Halloran of Fehily Timoney & Company on behalf of DAFM.
Date referred to Inspector	02/07/2020 - Certified 10/08/2020 10/08/2020 - Certified 06/01/2022

	06/01/2022 - Certified 12/01/2022
Desk Assessment/Desk & Field Assessment	Field and Desk Assessment, Field Inspected by previous inspector 07/08/2020. (SMS sent 06/08/2020)
Submissions Received	Submissions - 14/07/2020, 29/07/2020, 30/07/2020
Appropriate Assessment Screening	Natura Sites 1, 2, 3, 4, 5, 6, 7,8,9,10 - Screen Out: No likelihood of a significant effect on any European sites. (See Ecology above)
Recommendation from Inspector	Approve with conditions
Decision	In addition to the Department's environmental and silvicultural guidelines the following specific conditions apply to this proposal: Silvicultural and Environmental Conditions - Comply with the conditions of the attached Appropriate Assessment Determination dated 5/01/2022. - Install a 60m bare setback from the dwelling house and landscape an additional 20m corridor adjoining the bio plot with widely spaced, slow growing broadleaf, to comply with the decision of the Forestry Appeals Committee (FAC). - Comply with the recommendations outlined in the attached response from Inland Fisheries Ireland. (IFI) - Project to contain a minimum of 15% Broadleaf
Date Decision Issued	14/01/2022
Date Decision Advertised	14/01/2022

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: 23/06/2022

2

- v. Transparency and openness in the use of personal data is important to the FAC which aims to fully inform all its customers about the purpose(s) for which their data will be used and why, where it may be shared elsewhere and why and how long their data may be held by the FAC. This information and the information on the rights of customers who provide personal data to the FAC are detailed in the data protection section on the Appeals Office's website www.agriappeals.gov.ie.
- 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.
- vii. Please be advised that if you are attending the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois, R32 DTW5 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)

I am Deeply concerned about afforestation so near my family home. I have wrote/appealed to you already outlining many genuine concerns. These included Natural light, and view of Clare hills been obstructed. Also, Road at front of property has got considerably busier since its complete upgrade, and afforestation will bring deer to the area, hence causing a risk to school going traffic, going from Killoscully to Ballinabinech and back. Also, additional willige at back of house will cause havoc with any garden/lawns i hope to have in the future. I wasnt sure if my appeal was been taken seriously last year so i organised to go up home with an ornithologist (J. O'halloran). Continued at back →

Please see back of page →

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: _____

25-01-2022

Version 10/08/2021

AGRICULTURE

27 Jan 2022

③ He advised me/and showed me where there were a pair of Rare Curlew birds on land right across from my property. There are also hen harriers at the top of hill. He said any aggrrestation would be to their Detriment in the area. I have also spoken with Mike RYan who is involved with hen harrier IRELAND and he assures me that there are up to 30 people in the area opposed to this aggrrestation. I have already spent €400 appealing this, and I am willing to take this to as many appeals as there is possible until I am heard. I have never objected to anything in my life before, but this licence, is granted

would have a devastating effect on both my family, and the general area surrounding. I implore ye to seriously look at this again, and not just make alterations that are of no real benefit. Yours sincerely,

DAFM Ecologists response to appeal

1. “Pair of rare Curlew across from appellants property”

In relation to Curlew (*Numenius arquata*), also mentioned in point 3 above, Curlew is not designated as a Special Conservation Interest (SCI) of any Natura 2000 site within 1km of the project (1km is the screen out scenario provided by the DAFM Bird Foraging Tables (v06Jan20)). In cases where a protected species is not designated as part of a Natura 2000 site an Ecology Report can be undertaken to provide mitigation. However, while undertaking the Appropriate Assessment for the project it was noted via the “Curlew Breeding Buffer” layer on iFORIS that the species was not breeding within the project area as no breeding buffer was present and no further action was therefore required.

2. “Hen harrier at the top of the hill”

In relation to Hen Harrier (*Circus cyaneus*) as mentioned in point 3 above, the Appropriate Assessment Screening Determination report dated 18/10/2021 assessed the potential effect to Hen Harrier associated with the Slievefelim to Silvermines Mountains SPA (004165). As the SPA was within 11km of the project the species was screened in for further assessment. After further assessment as part of the Appropriate Assessment Report dated 18/10/2021, it was deemed that there would be no adverse effect on the Hen Harrier population of Slievefelim to Silvermines Mountains SPA (004165). The reasons being that the project did not intersect a 2021 HLNA (High Likelihood Nesting Area), the project provided sub-optimal foraging habitat (improved grassland) for the species and the same habitat dominated the landscape, and the resulting afforested area would provide habitat diversity within the general landscape, providing more valuable foraging habitat for Hen Harrier.

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?	Nov19V
Standard Operating Procedures applied? (Y/N)	Yes

Statement from Inspectorate.

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

No change		Confirm recommendation to grant licence	X	Revise conditions of licence		Remit licence for reassessment		Revoke licence	
-----------	--	---	---	------------------------------	--	--------------------------------	--	----------------	--

Taking into account the information supplied by the appellant, please provide a statement

In accordance with the FAC 047/2021 decision in relation to licence CN86739 to set aside and remit the licence to the Minister for a new assessment to determine whether the application should be subject to the EIA process under the EU EIA Directive and to establish as part of the file record the Appropriate Assessment Determination for the project has been undertaken before this decision was made in respect of the application has been completed. All relevant documents are available in IFORIS, and on the Forestry Licence Viewer (FLV).

In relation to the grounds of appeal raised by the appellant, I have the following to add:

In order to address the concern regarding the potential impact of the proposed afforestation on light entering the property / garden an appropriate dwelling house setback of 60m will be installed which is standard practise. The following condition has been applied to this licence ***“Install a 60m bare setback from the dwelling house and landscape an additional 20m corridor adjoining the bio plot with widely spaced, slow growing broadleaf, to comply with the decision of the Forestry Appeals Committee (FAC).”***

The potential impact on Hen Harrier has been assessed during the Stage 2 AAD. It was found that the project would be of benefit to the hen harrier - AAD report dated 05/01/2022. ***“The afforestation will provide habitat diversity within the landscape which will be of benefit to Hen Harrier”***

According to the latest GIS mapping information received from NPWS to DAFM there are no recorded Curlew nesting sites within the project area (new or old). Furthermore, the nearest former Curlew nesting site is located 10km away from the boundary of the proposed afforestation site.

Michael O’Brien – Forestry Inspector – Date 09/06/2022