

Coogan, Mary

From: Coogan, Mary
Sent: Monday 28 February 2022 18:07
To: forestry agriappeals
Cc: Carroll, Declan; OBrien, MichaelG; Forestry Support Unit; Coogan, Mary
Subject: DAFM Statement FAC008/2022 CN89074
Attachments: CN89074 DAFM Statement FAC008 2022.pdf

Please note that DAFM Statement FAC008/2022 CN89074 (Coillte) 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.

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
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Forestry Division Statement to the Forestry Appeals Committee

FAC Reference	FAC 008/2022
File Reference	CN89074
Scheme	Forest Road
Approved Length (M)	360 Metres

Summary of application:

Date Submitted	27/07/2021
Site Notice date	13/07/2021
Date Application Advertised	06/08/2021
Referrals to referral bodies	Roscommon County Council 12/08/2021 – No reply National Parks & Wildlife Service 19/08/2021 – Reply 28/09/2021
Referred to Archaeology	Archaeology Report by Barry Fitzgibbon 12/01/2022
Date Referred to Inspector	12/08/2021 Certified 16/08/2021 08/10/2021 Certified 28/01/2022
Desk Assessment/Desk & Field Assessment	Desk and field assessment, Field inspection 25/11/2021 SMS sent: 25/11/2021
Submissions received	1 submission received 30/07/2021
Appropriate Assessment Screening	Natura Sites 1, 2, 3, 4, 5, 6,7,8,9,10,11,12,13- Screen Out: No likelihood of a significant effect on any European site, and Appropriate Assessment not required.
Recommendation from Inspector	Approve with conditions
Decision	The forest road project and all associated operations shall be carried out and completed in accordance with the measures set out in the Technical Standard for the Design of Forest Entrances from Public Roads, the COFORD Forest Road Manual 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.
Date Decision Issued	01/02/2022
Date Decision Advertised	02/02/2022

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: 28/02/2022

Padraig Kelly B.C.L.
Solicitors, Commissioner
for Oaths & Notary Public

Mary Rose McNally B.A. (Hons).
LL.B (Hons).

Date: 11TH Feb 2022

My Ref.: M/9/20

Your Ref.: CN89074

Forestry Appeals Committee
Agriculture Appeals Office
Kilmichy Court
Portlaoise
Co Laois R32 DT W 5
Registered post & email

RE/ My Client
Right of way issue over Folios RN 32523 & 694L Co Roscommon
and Coillte Teoranta
PRA Dealing pending 2021/LR 103573R Contract CN89074
=====

Farnbeg,
Strokestown
County Roscommon.
Ireland.
Eir-code F42 R580

Forestry Appeals Committee

15 FEB 2022

Dublin Office:- Pearts Solrs
24/26 Upper Ormond Quay
Dublin 7. (Agency 203/14)

Phone : 071/9633666.
Fax : 071/9633182.
Mobile: 086-2588-521
Email : info@pksolrs.ie
DX : 130002 Strokestown
V.A.T. REG. NO.: 9811906C

Dear Colleagues

I refer to this matter and my letter of submission dated 29th July 2021 and the details therein. In that communication, I pointed out the history of my clients entitlement to an established traditional right of way which was then sought to be registered in the PRA under dealing Number 2021/LR 103573R.

I note that the decision dated 1st February that was issued to us, says and I quote " application for technical approval for a forest road" and that having considered our submission, the decision has been made to grant a licence.

With respect we wish to formally object and in this letter to appeal against the decision to grant a licence on the following grounds:-

- a) On reviewing the site notice, the application is stated as follows under various headings :- viz
" new road- answer 360 m

"upgrade of existing road" - answer no
"creation of new entrance from public road" answer No
"widening of existing entrance from public road" – answer yes

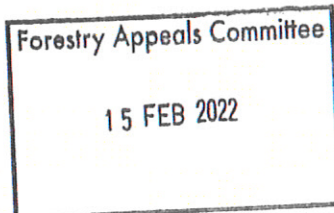
- b) With respect, the application submitted does amount to a substantial change and alteration in both width, extent, scope and direction of the existing right of way route, which the applicants solrs have conceded does exist in my clients favor, thus the site notice is invalid in that it does not describe the proposed work accurately.
- c) It appears that in reviewing the application, no consideration was given or regard had for the existing property rights of my client, which amounted to an existing route for the established traditional right of way.
- d) It is respectfully submitted that in considering any proposed application for a licence for a forest road, it is a basic principal that such proposed forest road application does not impact or affect any pre established property rights of third parties, (my clients in this instance). By way of illustration, it is assumed that if the applicant did not own the underlying property, then no valid forest road licence could be given, even if in all other respects ,the maps/drawings and specifications were all to the relevant Dept standard and we submit that it is the core and fundamental point here, that an application is made for a forest road ACROSS an existing right of way.
- e) It appears that the decision (as recited) appears to focus solely and exclusively on the criteria of the particular specifications within this particular application as to the forest road project and that no regard has been made to the underlying ownership issues.- it appears to us that this is a flawed basis, for any decision, which is capable of being the subject of a judicial review challenge.
- f) It is requested that in the interest of equity/transparency in this appeal, and with a view to endeavoring to understand the rational for the decision, we invite you to provide copies of all applications/communications and correspondence of the applicant and or his agent and all or any site visits, reports and memorandum/conclusions by the Dept prior to the issue of the licence, Again for transparency we confirm that our mail can be shared with the applicants and his professional advisers

I enclose cheque for €200 fee for the appeal and shall be obliged to hear and please confirm that you will notify the Applicant of this appeal.

Again for the avoidance of doubt please note my clients application in the PRA to confirm his established Right of way is continuing and we will rely on that. Please confirm safe receipt of this communication and oblige.

Yours faithfully

PADRAIG KELLY LLP
encls



Statement from Inspectorate.

Assessment Criteria	
Was the AA screening procedure at the time of approval applied? (Y/N)	Y
What version of the AA procedure?	VNov19
Standard Operating Procedures applied? (Y/N)	Y

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

(Tick as appropriate)

No change	Yes	Confirm recommendation to grant licence	Yes	Revise conditions of licence	No	Remit licence for reassessment	No	Revoke licence	No
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1. In relation to site notice, the proposed project is not an upgrade of a current road. Current right-of-way track will need a formation layer and pavement layer to allow for the bearing capacity of fully loaded timber trucks.
2. While there will be changes made to allow for the forest road construction there is no change proposed in the direction of the current track / right-of-way. There is nothing in the other elements of the proposed forest road construction which would impede access for a third-party rights holder.
3. Consideration was given to third-party rights through the submission which was made. No issue was foreseen about existing rights of right-of-way owner.
4. Consideration was given to right-of-way. As the proposed road project aligns with current right of way, no issue was foreseen.
5. As there were no third-party rights issues foreseen, the licence was issued focusing on road construction details.
6. Information on this forestry licence application is on the Forestry Licence Viewer (FLV). The FLV is an online portal providing the public with information to enable their participation in the decision-making process.

Name: Declan Carroll

Role: Forestry Inspector Grade 3

Date: 21/02/2022