

Coogan, Mary

From: Coogan, Mary
Sent: Monday 25 July 2022 15:51
To: forestryagriappeals
Cc: Reibisch, Momme; Booth, Alan; OBrien, MichaelG; Forestry Support Unit; Coogan, Mary
Subject: DAFM Statements FAC010/2022 FAC011/2022 FAC012/2022 CN89154
Attachments: CN89154 DAFM Statement FAC010 2022.pdf; CN89154 DAFM Statement FAC011 2022.pdf; CN89154 DAFM Statement FAC012 2022.pdf; DAFM Ecologists response to appeal FAC 010 2022 CN89154.docx; DAFM Ecologists response to appeal FAC 011 2022 CN89154.docx; DAFM Ecologists response to appeal FAC 012 2022 CN89154.docx

Please note that DAFM Responses from Ecologist and DAFM Inspector Statements for FAC010/2022 FAC011/2022 FAC012/2022 CN89154 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
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

DAFM Ecologists response to appeal FAC 010/2022 (CN89154)

| | |
|---------------------------|---------------|
| FAC Reference | FAC 010/2022 |
| File Reference (CN / TFL) | CN89154 |
| Scheme (if relevant) | Afforestation |
| Species proposed | GPC 10 |
| Area | 7.46ha |

This proposed application, CN89154, is located in Drumman More and Knockhall, Co. Roscommon and consists of 8 plots, totaling 7.46ha. Plots 4, 5, 6 and 7 will be left as Bio Plots, while the remaining plots will be planted with native trees under GPC10 – NWS Est (Scenario 4). Species will include Alder, Birch, Pedunculate Oak and Additional Broadleaves. It is proposed to plant the trees via invert mounding, and Slit planting, with no associated drainage, and without the use of herbicides or fertilizers. The proposed application site contains a soil composition of Surface water Gleys, Ground water Gleys (26%), Peaty Gleys (31%), Cutaway, Cutover Basin Peats and Blanket Peats (some) (43%)¹. The application lies between 30 m and 50 m and the average slope across the site is 1% and ranges from 0% to 5%.

A number of relevant watercourses are present within the proposed application site. A centralized relevant watercourse intersects the proposed site at its center and connects to Lough Bofin to the east. OPW Flood Mapping (May 2021) shows Pluvial Flooding with a probability of 1:100 and 1:1000 occurring throughout the site, while a number of 3rd Party submissions have highlighted seasonal flooding occurring within the site. The proposed application site is contained within the Upper Shannon (26C) (100%) Catchment, the Shannon[Upper]_SC_040 (100%) Sub-catchment and the Shannon (Upper)_070 (100%) Sub-basin.

The applicant submitted an AA Pre-Screening Report and a Natura Impact Statement (see contacts dated 11/08/2021) to facilitate the Minister carrying out an appropriate assessment. DAFM subsequently evaluated the submitted NIS, and produced an AA Determination, dated 27/01/2022, whereby the application was assessed, and mitigation measures were implemented to ensure that there would be no adverse effect to any European sites or features of Local Importance. Form 1 of the license application details had woody weed removal ticked, but the NIS, which involved an ecological survey and assessment of the operations did not identify any scrub or woody weed removal, hence the identification of this in the Form 1 was in error.

Appeal (FAC 010/2022) was issued on the 20/02/2022 in relation to the Afforestation application CN89154.

The appellant states "the flooding of this area is a fact...If you allow this plantation with hundreds of trees, the water can only rise quicker as, as the tree matures, it takes up space leaving the water with no option but to rise quicker and closer to our house".

DAFM Ecology Response:

The proposed application is for the afforestation of native broadleaves across this site, which is situated on a flat topography. It is proposed to plant the trees via invert mounding, with no

¹ (Source: National Soils Map 2010, iFORIS / GIS output)

associated drainage.

It is widely recognized that the planting of native trees can help reduce the effects of flooding. In addition to the absorption from the roots of the trees, the root systems are also effective in increasing water infiltration into the soil and reducing and slowing run-off on farmland. Water infiltration rates can be 60 times higher within tree shelterbelts than adjoining farmland^{2,3}. There are many publications and studies which recognize the importance of trees as sustainable, low-maintenance solutions for flooding and as a result they are being adapted into many flood-defense projects with councils, particularly in the UK.

The appellant states that *"with a plantation comes the influx of other lovely "native" creatures, mink, red squirrel along with pine-martin and rats will ensure that our little waterfowl will not survive long as they wreak havoc on their young and encroach further upland to take all birds eggs as they go. Things are bleak enough without bringing in a "protected" species with no natural predators"*.

DAFM Ecology Response:

Mink (*Mustela vison*) and Brown Rat (*Rattus norvegicus*) are not native to Ireland, nor are they protected. Mink are semi-aquatic and are generally associated with aquatic habitats, favoring riparian habitats with abundant bankside cover. The proposed application site is situated c.70m from the shores of Lough Bofin, and also has a separating road, so is not considered riparian, and is sub-optimal for the species due to the intervening distance. Should the species be present, it would instead favor existing habitat on the shoreline. The proposed application site also does not contain optimal habitat for waterfowl as it only seasonally floods, with more suitable habitat found in the wider environs of the project site.

Brown rats (*Rattus norvegicus*) are originally native to northern China. In Asia, they were native to forests and bushy areas, however, they now prefer to remain in areas which are in close proximity to human settlements as they provide these opportunistic animals with an abundant source of food and shelter. This species of rat can be found living in commercial and industrial buildings, on landfills, in sewer systems, along inland waterways such as urban canals, on rural farms and along Ireland's coasts⁴.

Red Squirrels (*Sciurus vulgaris*) are a native Irish species that has been present since before the last ice age. They are protected under the Wildlife Acts (as amended) and the Bern Convention (Appendix III). This species is found throughout Ireland and are totally dependent on woodland as a habitat, however they do not predate waterfowl. Red squirrels feed mainly on tree seeds, although they can utilize fungi, fruit and buds as they become available in the woodland.

The pine marten (*Martes martes*) is native to Ireland and is one of our rarest mammals. Once common throughout the country, by the 20th century this species had become extinct from the majority of the island, surviving only in a few isolated and fragmented populations, mainly in the west. This decline was the result of hunting of martens for their fur, loss of habitat (mature woodland), and both direct and indirect poisoning and persecution. The pine marten is gradually recolonizing Ireland and returning to areas where it has not been seen for decades. The Pine marten is protected under the Wildlife Acts (as amended) and the European Union's Habitats and Species Directive which further obliges Ireland to maintain the favorable conservation status of the pine marten throughout its range.

² [Can trees and woods help reduce flooding? - Woodland Trust](#)

³ [Trees can Reduce Floods - The Institute of Chartered Foresters](#)

⁴ [Brown Rat – A guide to Irelands protected habitats & species \(conserveireland.com\)](#)

Signed:

A rectangular box containing a handwritten signature in black ink. The signature appears to read "Alan Booth" in a cursive style.

Alan Booth
Ecologist, Forest Service Inspectorate

Date: 23/05/2022

DAFM Ecologists response to appeal FAC 011/2022 (CN89154)

| | |
|---------------------------|---------------|
| FAC Reference | FAC 011/2022 |
| File Reference (CN / TFL) | CN89154 |
| Scheme (if relevant) | Afforestation |
| Species proposed | GPC 10 |
| Area | 7.46ha |

This proposed application, CN89154, is located in Drumman More and Knockhall, Co. Roscommon and consists of 8 plots, totaling 7.46ha. Plots 4, 5, 6 and 7 will be left as Bio Plots, while the remaining plots will be planted with native trees under GPC10 – NWS Est (Scenario 4). Species will include Alder, Birch, Pedunculate Oak and Additional Broadleaves. It is proposed to plant the trees via invert mounding, and Slit planting, with no associated drainage, and without the use of herbicides or fertilizers. The proposed application site contains a soil composition of Surface water Gleys, Ground water Gleys (26%), Peaty Gleys (31%), Cutaway, Cutover Basin Peats and Blanket Peats (some) (43%)¹. The application lies between 30 m and 50 m and the average slope across the site is 1% and ranges from 0% to 5%.

A number of relevant watercourses are present within the proposed application site. A centralized relevant watercourse intersects the proposed site at its center and connects to Lough Bofin to the east. OPW Flood Mapping (May 2021) shows Pluvial Flooding with a probability of 1:100 and 1:1000 occurring throughout the site, while a number of 3rd Party submissions have highlighted seasonal flooding occurring within the site. The proposed application site is contained within the Upper Shannon (26C) (100%) Catchment, the Shannon[Upper]_SC_040 (100%) Sub-catchment and the Shannon (Upper)_070 (100%) Sub-basin.

The applicant submitted an AA Pre-Screening Report and a Natura Impact Statement (see contacts dated 11/08/2021) to facilitate the Minister carrying out an appropriate assessment. DAFM subsequently evaluated the submitted NIS, and produced an AA Determination, dated 27/01/2022, whereby the application was assessed, and mitigation measures were implemented to ensure that there would be no adverse effect to any European sites or features of Local Importance. Form 1 of the license application details had woody weed removal ticked, but the NIS, which involved an ecological survey and assessment of the operations did not identify any scrub or woody weed removal, hence the identification of this in the Form 1 was in error.

Appeal (FAC 011/2022) was issued on the 20/02/2022 in relation to the Afforestation application CN89154.

The appellant states "*no consideration to highly sensitive, unique and low-lying lakeside nature of this site*", seasonal flooding, existing drains and drainage, drain cleaning and silt traps.

DAFM Ecology Response:

The proposed application is for the afforestation of native broadleaves across this site, which is situated on a flat topography. It is proposed to plant the trees via invert mounding, with no associated drainage, and without the use of herbicides or fertilizers. It is determined that there

¹ (Source: National Soils Map 2010, iFORIS / GIS output)

will be no deterioration in water quality to the European sites located downstream, or the adjoining lakes/pNHA's, particularly with the protective measures outlined in the NIS and within the AAD. These measures include setbacks from existing drains and aquatic features.

It has been determined that from a silvicultural perspective, following discussions with the Regional Inspector and who had previously visited the site, that seasonal flooding will not impact the growth potential of the chosen species.

It is widely recognized that the planting of native trees can help reduce the effects of flooding. In addition to the absorption from the roots of the trees, the root systems are also effective in increasing water infiltration into the soil and reducing and slowing run-off on farmland. Water infiltration rates can be 60 times higher within tree shelterbelts than adjoining farmland^{2,3}. There are many publications and studies which recognize the importance of trees as sustainable, low-maintenance solutions for flooding and as a result they are being adapted into many flood-defense projects with councils, particularly in the UK.

The appellant states that planting should not occur given the fact that the soils are Peat and Peatland Ecosystem value exceeds that of forestry. The appeal also states that Coillte does not apply for new afforestation licenses on Peatlands.

DAFM Ecology Response:

Coillte have indeed moved away from planting habitats such as Blanket Bogs, however while the site contains organic soil, it is not a peatland habitat. An experienced ecologist with over 18 years of experience including involvement in national surveys funded by NPWS, carried out a habitat survey for the NIS (see contacts dated 11/08/2021). The NIS showed that habitats on site consisted of Wet grassland (with signs of improvement), in addition to improved agricultural grassland.

It was stated in the NIS that the project area is largely dominated by semi-improved wet grassland and wet grassland. Species commonly found include rushes (*Juncus* spp.), purple moor grass (*Molinia caerulea*), Yorkshire fog (*Holcus lanatus*), Timothy (*Phleum pratense*), crested dog's tail (*Cynosurus cristatus*), meadow grass (*Poa* spp.), bent grass (*Agrostis* spp.), red fescue (*Festuca rubra*) and sweet meadow grass (*Anthoxanthum odoratum*) with herbs such as docks (*Rumex* spp.), creeping buttercup (*Ranunculus repens*), meadowsweet (*Filipendula ulmaria*), silverweed (*Potentilla anserina*), cuckooflower (*Cardamine* spp.), Angelica (*Angelica sylvestris*), marsh cinquefoil (*Potentilla palustris*) and thistle (*Cirsium arvense*, *C. palustre*). Bryophytes found include *Calliergonella cuspidata*, *Hylocomium splendens*, *Scleropodium purum*, *Kindbergia praelonga* and *Rhytidiadelphus squarrosus*. It was also noted that as drainage improves with slope, a more improved, species-poor grassland sward develops.

In conclusion, the site consists of a Wet Grassland habitat, with signs of improvement and which is overlain on organic soils, as opposed to a Peatland or Bog habitat. As discussed above, the site will be planted with native tree species which have a high ecosystem value.

The appellant highlights a response from An Taisce, dated 13/09/2021 where they expressed concerns about this plantation and advised much larger setbacks (20m). It was stated that these setbacks were ignored in favour of a 10m setback.

DAFM Ecology Response:

An Taisce, in their response, recommended an aquatic zone setback of at least 20 m and a

² [Can trees and woods help reduce flooding? - Woodland Trust](#)

³ [Trees can Reduce Floods - The Institute of Chartered Foresters](#)

setback for relevant watercourses of 5 m.

There are no aquatic zones located within, or directly adjoining the proposed application site. Relevant watercourses were recorded on site and it was highlighted that a centralized relevant watercourse intersects the proposed site at its center and connects to Lough Bofin to the east.

It was instructed that a 'water setback', a minimum of 10 meters in width (from both sides) shall be installed adjoining the main relevant watercourse within the center of the site, as specified in the NIS and the AAD. The remaining relevant watercourses were to be given a setback of 5 metres. The distance for the central relevant watercourse exceeds that which was recommended by An Taisce.

While it was recognized that the site had a flat topography, would use no chemicals and that it contained vegetated drains which would work as a natural buffer, the NIS noted the sensitive nature of the adjoining lakes and felt that it would take a precautionary approach and increase this setback to ensure that there was no possibility for a deterioration in water quality as a result of forestry activities. It was also noted that as the relevant watercourse nears the roadway to the east, it becomes wider and more free-flowing and therefore it was recommended that a geotextile silt trap be installed at this location to further negate any risks which may occur.

The appellant expresses concern for water quality as a result of this afforestation and the negative repercussions that it may have on aquatic species. They also state that there may be a loss of foraging habitat when the trees mature for species such as Otter, Badger, Pine Marten, Foxes and Hares. It was also stipulated that there would be a loss of habitat for birdlife with loss of ground vegetation and insects.

DAFM Ecology Response:

As highlighted in the AAD, the proposed application is for the afforestation of native broadleaves across this site, which is situated on a flat topography. It is proposed to plant the trees via invert mounding, with no associated drainage, and without the use of herbicides or fertilizers. It is determined that there will be no deterioration in water quality to the European sites located downstream, or the adjoining lakes/pNHA's, particularly with the protective measures outlined in the NIS and within this AAD. These measures include setbacks from existing drains and aquatic features. The planting of trees may be beneficial to the receiving aquatic environment due to the rational provided above regarding flooding and surface run-off, in addition there will be no fertilizer application.

As highlighted in the NIS, the hedgerows/ treelines and drains add to the natural biodiversity of the project area and act as semi-natural corridors to wildlife. As per the AAD, these habitats will be retained, with appropriate setbacks to ensure their protection. An ESB corridor will also be included in the application. This will provide valuable habitat for pollinators, insects and other wildlife in the shape of sheltered corridors. The planting of native broadleaves will actually benefit these species as they are known to forage in these habitats. The broadleaf trees, and the natural corridors will provide a mosaic of habitat which will benefit invertebrate assemblages, in addition to the birds and mammals which may forage on these species.

The appellant states that there was inadequate consideration of the adjacent pNHA and highlight that immediately north of this site there is a natural wild peatland/bog which is a proposed natural heritage area and was not adequately considered in the reports. The appellants feel that this peatland, together with this adjoining marshy land is perfect habitat for endangered ground nesting bird species such as Corncrake and birds of prey such as the Hen Harrier which could easily be reintroduced to this area. The unique fauna and insect

species associated with such peatlands should also be preserved. They highlight that the shores of Lough Bofin are also part of the same proposed natural heritage area.

DAFM Ecology Response:

The site synopsis for Lough Boderg/ Lough Bofin pNHA (001642) identifies the adjoining peatland as an area of old cut-away, which floods in winter and contains widespread Bog Myrtle, with locally abundant Royal Fern. The site synopsis also states that it is surrounded by deep water drains, and there is also an existing woodland separating the bog and the site, which is visible on aerial mapping. It was determined that there could be no significant effects to this peatland as a result of the proposed afforestation. There will be no change in habitat to the pNHA for any breeding bird species utilizing it as a result of forestry related activities, due to the separation distance, the intervening habitats and the deep drainage channels surrounding the pNHA.

The pNHA is protected for its Lakeland habitats, including native woodland habitats which are present on the lakeshore. The proposed application site is not directly adjoining the lakeshore, and there will be no loss of this habitat. The planting of native broadleaves adjoining the existing woodlands will be beneficial to the pNHA as it will expand its range. As specified in the AAD, water protection measures will ensure that there is no deterioration in water quality as a result of forestry related activities.


The appellant feels that DAFM seem determined to ignore these serious and valid concerns, regarding biodiversity, fauna, drainage, lake pollution, birdlife, wildlife, visual appeal, impact on the adjoining wild peatland/bog etc. in order to reach its plantation numbers. The appellants state that the inadequate natura impact statement (undertaken on behalf of the landowner) and appropriate assessment (undertaken on behalf of the DAFM) should be set aside and this plantation license refused or at the very least a proper unbiased environmental impact assessment prepared that covers the very significant environmental and human issues surrounding this site.

DAFM Ecology Response:

The NIS was carried out by an experienced ecologist with over 18 years of experience, including involvement in national surveys funded by NPWS. This NIS was also reviewed by an experienced DAFM ecologist to ensure that the assessment was carried out thoroughly, and that the proposed mitigation measures would ensure that there would be no significant effects to Natura sites, or features of Local Importance.

In conclusion, and as per the AAD, the mitigation measures outlined in the AAD will ensure that there are no adverse effects on the integrity of the European sites and their associated Qualifying Interests, and that there is no deterioration in water quality within the local environment. There will also be no negative impact on the local biodiversity, with the planting of native broadleaves instead being a beneficial habitat for these species, and also negating any flooding issues, rather than exacerbating them.

Signed:



Alan Booth
Ecologist, Forest Service Inspectorate

Date: 23/05/2022

DAFM Ecologists response to appeal FAC 012/2022 (CN89154)

| | |
|---------------------------|---------------|
| FAC Reference | FAC 012/2022 |
| File Reference (CN / TFL) | CN89154 |
| Scheme (if relevant) | Afforestation |
| Species proposed | GPC 10 |
| Area | 7.46ha |

This proposed application, CN89154, is located in Drumman More and Knockhall, Co. Roscommon and consists of 8 plots, totaling 7.46ha. Plots 4, 5, 6 and 7 will be left as Bio Plots, while the remaining plots will be planted with native trees under GPC10 – NWS Est (Scenario 4). Species will include Alder, Birch, Pedunculate Oak and Additional Broadleaves. It is proposed to plant the trees via invert mounding, and Slit planting, with no associated drainage, and without the use of herbicides or fertilizers. The proposed application site contains a soil composition of Surface water Gleys, Ground water Gleys (26%), Peaty Gleys (31%), Cutaway, Cutover Basin Peats and Blanket Peats (some) (43%)¹. The application lies between 30 m and 50 m and the average slope across the site is 1% and ranges from 0% to 5%.

A number of relevant watercourses are present within the proposed application site. A centralized relevant watercourse intersects the proposed site at its center and connects to Lough Bofin to the east. OPW Flood Mapping (May 2021) shows Pluvial Flooding with a probability of 1:100 and 1:1000 occurring throughout the site, while a number of 3rd Party submissions have highlighted seasonal flooding occurring within the site. The proposed application site is contained within the Upper Shannon (26C) (100%) Catchment, the Shannon[Upper]_SC_040 (100%) Sub-catchment and the Shannon (Upper)_070 (100%) Sub-basin.

The applicant submitted an AA Pre-Screening Report and a Natura Impact Statement (see contacts dated 11/08/2021) to facilitate the Minister carrying out an appropriate assessment. DAFM subsequently evaluated the submitted NIS, and produced an AA Determination, dated 27/01/2022, whereby the application was assessed, and mitigation measures were implemented to ensure that there would be no adverse effect to any European sites or features of Local Importance. Form 1 of the license application details had woody weed removal ticked, but the NIS, which involved an ecological survey and assessment of the operations did not identify any scrub or woody weed removal, hence the identification of this in the Form 1 was in error.

Appeal (FAC 012/2022) was issued on the 20/02/2022 in relation to the Afforestation application CN89154.

The appellant states "*no consideration to highly sensitive, unique and low-lying lakeside nature of this site*", seasonal flooding, existing drains and drainage, drain cleaning and silt traps.

DAFM Ecology Response:

The proposed application is for the afforestation of native broadleaves across this site, which is situated on a flat topography. It is proposed to plant the trees via invert mounding, with no associated drainage, and without the use of herbicides or fertilizers. It is determined that there

¹ (Source: National Soils Map 2010, iFORIS / GIS output)

will be no deterioration in water quality to the European sites located downstream, or the adjoining lakes/pNHA's, particularly with the protective measures outlined in the NIS and within the AAD. These measures include setbacks from existing drains and aquatic features.

It has been determined that from a silvicultural perspective, following discussions with the Regional Inspector and who had previously visited the site, that seasonal flooding will not impact the growth potential of the chosen species.

It is widely recognized that the planting of native trees can help reduce the effects of flooding. In addition to the absorption from the roots of the trees, the root systems are also effective in increasing water infiltration into the soil and reducing and slowing run-off on farmland. Water infiltration rates can be 60 times higher within tree shelterbelts than adjoining farmland^{2,3}. There are many publications and studies which recognize the importance of trees as sustainable, low-maintenance solutions for flooding and as a result they are being adapted into many flood-defense projects with councils, particularly in the UK.

The appellant states that planting should not occur given the fact that the soils are Peat and Peatland Ecosystem value exceeds that of forestry. The appeal also states that Coillte does not apply for new afforestation licenses on Peatlands.

DAFM Ecology Response:

Coillte have indeed moved away from planting habitats such as Blanket Bogs, however while the site contains organic soil, it is not a peatland habitat. An experienced ecologist with over 18 years of experience including involvement in national surveys funded by NPWS, carried out a habitat survey for the NIS (see contacts dated 11/08/2021). The NIS showed that habitats on site consisted of Wet grassland (with signs of improvement), in addition to improved agricultural grassland.

It was stated in the NIS that the project area is largely dominated by semi-improved wet grassland and wet grassland. Species commonly found include rushes (*Juncus* spp.), purple moor grass (*Molinia caerulea*), Yorkshire fog (*Holcus lanatus*), Timothy (*Phleum pratense*), crested dog's tail (*Cynosurus cristatus*), meadow grass (*Poa* spp.), bent grass (*Agrostis* spp.), red fescue (*Festuca rubra*) and sweet meadow grass (*Anthoxanthum odoratum*) with herbs such as docks (*Rumex* spp.), creeping buttercup (*Ranunculus repens*), meadowsweet (*Filipendula ulmaria*), silverweed (*Potentilla anserina*), cuckooflower (*Cardamine* spp.), Angelica (*Angelica sylvestris*), marsh cinquefoil (*Potentilla palustris*) and thistle (*Cirsium arvense*, *C. palustre*). Bryophytes found include *Calliergonella cuspidata*, *Hylocomium splendens*, *Scleropodium purum*, *Kindbergia praelonga* and *Rhytidiadelphus squarrosus*. It was also noted that as drainage improves with slope, a more improved, species-poor grassland sward develops.

In conclusion, the site consists of a Wet Grassland habitat, with signs of improvement and which is overlain on organic soils, as opposed to a Peatland or Bog habitat. As discussed above, the site will be planted with native tree species which have a high ecosystem value.

The appellant highlights a response from An Taisce, dated 13/09/2021 where they expressed concerns about this plantation and advised much larger setbacks (20m). It was stated that these setbacks were ignored in favour of a 10m setback.

DAFM Ecology Response:

An Taisce, in their response, recommended an aquatic zone setback of at least 20 m and a

² [Can trees and woods help reduce flooding? - Woodland Trust](#)

³ [Trees can Reduce Floods - The Institute of Chartered Foresters](#)

setback for relevant watercourses of 5 m.

There are no aquatic zones located within, or directly adjoining the proposed application site. Relevant watercourses were recorded on site and it was highlighted that a centralized relevant watercourse intersects the proposed site at its center and connects to Lough Bofin to the east.

It was instructed that a 'water setback', a minimum of 10 meters in width (from both sides) shall be installed adjoining the main relevant watercourse within the center of the site, as specified in the NIS and the AAD. The remaining relevant watercourses were to be given a setback of 5 metres. The distance for the central relevant watercourse exceeds that which was recommended by An Taisce.

While it was recognized that the site had a flat topography, would use no chemicals and that it contained vegetated drains which would work as a natural buffer, the NIS noted the sensitive nature of the adjoining lakes and felt that it would take a precautionary approach and increase this setback to ensure that there was no possibility for a deterioration in water quality as a result of forestry activities. It was also noted that as the relevant watercourse nears the roadway to the east, it becomes wider and more free-flowing and therefore it was recommended that a geotextile silt trap be installed at this location to further negate any risks which may occur.

The appellant expresses concern for water quality as a result of this afforestation and the negative repercussions that it may have on aquatic species. They also state that there may be a loss of foraging habitat when the trees mature for species such as Otter, Badger, Pine Marten, Foxes and Hares. It was also stipulated that there would be a loss of habitat for birdlife with loss of ground vegetation and insects.

DAFM Ecology Response:

As highlighted in the AAD, the proposed application is for the afforestation of native broadleaves across this site, which is situated on a flat topography. It is proposed to plant the trees via invert mounding, with no associated drainage, and without the use of herbicides or fertilizers. It is determined that there will be no deterioration in water quality to the European sites located downstream, or the adjoining lakes/pNHA's, particularly with the protective measures outlined in the NIS and within this AAD. These measures include setbacks from existing drains and aquatic features. The planting of trees may be beneficial to the receiving aquatic environment due to the rational provided above regarding flooding and surface run-off, in addition there will be no fertilizer application.

As highlighted in the NIS, the hedgerows/ treelines and drains add to the natural biodiversity of the project area and act as semi-natural corridors to wildlife. As per the AAD, these habitats will be retained, with appropriate setbacks to ensure their protection. An ESB corridor will also be included in the application. This will provide valuable habitat for pollinators, insects and other wildlife in the shape of sheltered corridors. The planting of native broadleaves will actually benefit these species as they are known to forage in these habitats. The broadleaf trees, and the natural corridors will provide a mosaic of habitat which will benefit invertebrate assemblages, in addition to the birds and mammals which may forage on these species.

The appellant states that there was inadequate consideration of the adjacent pNHA and highlight that immediately north of this site there is a natural wild peatland/bog which is a proposed natural heritage area and was not adequately considered in the reports. The appellants feel that this peatland, together with this adjoining marshy land is perfect habitat for endangered ground nesting bird species such as Corncrake and birds of prey such as the Hen Harrier which could easily be reintroduced to this area. The unique fauna and insect

species associated with such peatlands should also be preserved. They highlight that the shores of Lough Bofin are also part of the same proposed natural heritage area.

DAFM Ecology Response:

The site synopsis for Lough Boderg/ Lough Bofin pNHA (001642) identifies the adjoining peatland as an area of old cut-away, which floods in winter and contains widespread Bog Myrtle, with locally abundant Royal Fern. The site synopsis also states that it is surrounded by deep water drains, and there is also an existing woodland separating the bog and the site, which is visible on aerial mapping. It was determined that there could be no significant effects to this peatland as a result of the proposed afforestation. There will be no change in habitat to the pNHA for any breeding bird species utilizing it as a result of forestry related activities, due to the separation distance, the intervening habitats and the deep drainage channels surrounding the pNHA.

The pNHA is protected for its Lakeland habitats, including native woodland habitats which are present on the lakeshore. The proposed application site is not directly adjoining the lakeshore, and there will be no loss of this habitat. The planting of native broadleaves adjoining the existing woodlands will be beneficial to the pNHA as it will expand its range. As specified in the AAD, water protection measures will ensure that there is no deterioration in water quality as a result of forestry related activities.

The appellant feels that DAFM seem determined to ignore these serious and valid concerns, regarding biodiversity, fauna, drainage, lake pollution, birdlife, wildlife, visual appeal, impact on the adjoining wild peatland/bog etc. in order to reach its plantation numbers. The appellants state that the inadequate natura impact statement (undertaken on behalf of the landowner) and appropriate assessment (undertaken on behalf of the DAFM) should be set aside and this plantation license refused or at the very least a proper unbiased environmental impact assessment prepared that covers the very significant environmental and human issues surrounding this site.

DAFM Ecology Response:

The NIS was carried out by an experienced ecologist with over 18 years of experience, including involvement in national surveys funded by NPWS. This NIS was also reviewed by an experienced DAFM ecologist to ensure that the assessment was carried out thoroughly, and that the proposed mitigation measures would ensure that there would be no significant effects to Natura sites, or features of Local Importance.

In conclusion, and as per the AAD, the mitigation measures outlined in the AAD will ensure that there are no adverse effects on the integrity of the European sites and their associated Qualifying Interests, and that there is no deterioration in water quality within the local environment. There will also be no negative impact on the local biodiversity, with the planting of native broadleaves instead being a beneficial habitat for these species, and also negating any flooding issues, rather than exacerbating them.

Signed:



Alan Booth
Ecologist, Forest Service Inspectorate

Date: 23/05/2022



Forestry Division Statement to the Forestry Appeals Committee

| | |
|------------------|---------------|
| FAC Reference | FAC010/2022 |
| File Reference | CN89154 |
| Scheme | Afforestation |
| Species proposed | GPC 10 – NWE |
| Approved Area | 7.47 Hectares |

Summary of application:

| | |
|---|---|
| Date Submitted | 14/07/2021 |
| Site Notice date | 07/07/2021 |
| Date Application Advertised | 11/08/2021 |
| Referrals to referral bodies | An Taisce 16/08/2021 - Reply 13/09/2021 (Scan 13/09/2021) National Parks & Wildlife Service 16/08/2021 – Reply 22/09/2021 (Appendix) (Scan 22/09/2021) Roscommon County Council 16/08/2021 – Reply (Scan date) 22/09/2021 |
| Referral to Ecology | NIS CN79583 11/05/2021 by Saoirse O'Donoghue, Consultant Ecologist, North-West Ecology Ltd., submitted with application for applicant / forester NIS CN89154 11/05/2021 (Scan 11/08/2021) by Saoirse O'Donoghue, Consultant Ecologist, North-West Ecology Ltd., submitted with application for applicant / forester AA Screening Report & Determination 27/01/2022 by Alan Booth, Ecologist on behalf of DAFM AAD 27/01/2022 by Alan Booth, Ecologist on behalf of DAFM. |
| Date Referred to Inspector | 16/08/2021 Certified 16/08/2021 04/10/2021 Certified 09/02/2022 Inspect at 1 st Instalment |
| Desk Assessment/Desk & Field Assessment | Field & Desk Assessment: Site inspected by a DAFM Inspector |
| Submissions Received | Submissions received: 03/09/2021 2, 06/09/2021 1, 08/09/2021 5, |

| | |
|----------------------------------|--|
| Appropriate Assessment Screening | Natura Site 1, 2, 3, 4, 5 - Screen Out: No likelihood of a significant effect on any European site, and Appropriate Assessment not required. (See Ecology above) |
| Recommendation from Inspector | Approve with Conditions |
| Decision | <p>- 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.</p> <p>- 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.</p> <p>- Upon commencement of work on site, the licensee shall notify the Department in writing. Any necessary additional documentation, as may be required by a condition attached to the Licence, shall be included with this Notice of Commencement. Where grant aid is involved, this notice is represented by Form 1(b): Notice of Substantial Commencement, completed by the Licensee and the Registered Forester. In situations where no grant aid is involved, the notice must be in the form of a signed letter. Reason: To enable the Department to verify compliance with the Licence and the conditions attached thereto.</p> <p>- Condition: Adhere to the mitigation measures set out in the attached Appropriate Assessment Determination, dated 27/01/2022. Reason: In the interests of protection of the environment, in particular the protection of European Site(s).</p> <p>- Native woodland scenarios are to be adhered to at all time</p> |
| Date Decision Issued | 09/02/2022 |
| Date Decision Advertised | 11/02/2022 |

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: 22/07/2022

Grounds of Appeal

NOTICE OF APPEAL FORM

Appeal to the Forestry Appeals Committee (FAC)

| | |
|-------------------|--|
| Official Use Only | FAC Reference _____ |
| Date Received | _____ |
| Received on time? | Yes/No |
| 3rd Party | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Checked by: | _____ |

This form represents the format of appeal required by the FAC and must be employed in submitting an appeal in line with the Forestry Appeals Committee Regulations 2020.

Appeals submitted in any other format will not be accepted.

| Appellant Details | |
|---|---|
| IMPORTANT NOTE: IF THERE IS MORE THAN ONE PERSON MAKING AN APPEAL, A SEPARATE NOTICE OF APPEAL FORM MUST BE SUBMITTED BY EACH APPELLANT. | |
| AN APPEAL RECEIVED WITH MULTIPLE APPELLANTS LISTED WILL BE DEEMED INVALID. | |
| TEAM COMPLETE ALL FIELDS | |
| 1. Name of Appellant: | _____ |
| 2. Address of Appellant: (Please include E-lands) | _____ |
| 3. Telephone Number: | _____ |
| 4. Email: Please note by providing an email address all correspondence from the FAC, may come via email | _____ |
| Details of decision of the Minister for Agriculture, Food and the Marine (DAFM) to be appealed A SEPARATE FORM MUST BE COMPLETED FOR EACH DECISION | |
| 5. Decision Reference ¹ : <i>Please tick the appropriate licence type and provide the licence number</i> | <input checked="" type="checkbox"/> Allotment (CN): <u>89154</u> <input type="checkbox"/> Forest Road Works (CN): _____ <input type="checkbox"/> Felling Licence: _____ <input type="checkbox"/> Aerial Fertilisation (AFA): _____ |
| 6. Date of Decision under appeal ² : <u>09.02.2022</u> | 7. Town land and County: <u>Knockhall Roscommon</u> |
| 8. Please indicate if you are the APPLICANT ² named in the Decision: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |

¹ Available on DAFM website <https://www.gov.ie/en/publication/6426-forestry>

² Applicant refers to the person who made the application to the Department of Agriculture Food and the Marine for the licence, approval or entry in a register that is the subject to this appeal

9. Appellant's Grounds of Appeals and supporting documents/information

- The appellant must complete Section 14 overleaf by setting out in writing all of the grounds of appeal that must be specific to the licence including the facts and reasoning on which the appellant intends to rely and in accordance with Section 14.B(4) of the Agriculture Appeals Act 2001 (as amended) must include with their appeal all documents, particulars or other information that they consider relevant and a list of any such documents, particulars or other information.

10. Fee to be included with appeal

The Forestry (Miscellaneous Provisions) Act 2020 provides for the collection of fees of €200. Please include €200 by way of postal order, bank draft or cheque with this form. Payments should be made payable to the Forestry Appeals Committee. Please note that failure to submit the fee with your appeal will result in your appeal being deemed invalid.

11. Hearing of appeals

Appeal hearings are held by the FAC at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois, R32 DTW5, or in another venue in Portlaoise, or when deemed appropriate remotely. The Forestry Appeals Committee shall determine an appeal without an oral hearing unless, having regard to the particular circumstances of the appeal, it considers that it is necessary to conduct an oral hearing in order to properly and fairly determine the appeal. Any fees that any representative(s) may charge or any expenses incurred by the appellant or their representative(s) attending a hearing shall be borne by appellants or their representative(s). Where held, appellants shall be advised of the date, time and location of the oral hearing and it will not be possible to change the date once scheduled. Names of any person(s) accompanying appellants or nominated to attend an oral hearing on an appellant's behalf must be provided on request. Where an email is provided all communications from the FAC may issue via email only.

12. Submission of appeals

Appeals may be submitted by post. The postal address is Forestry Appeals Committee, Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois, R32 DTW5. The Notice of Appeal Form must be signed by the appellant. Appeals and payments that are not received within the statutory deadline cannot be accepted.

Statutory Deadline for Receipt of Appeals

Any decisions issued by the Minister for Agriculture, Food and the Marine (DAFM) are subject to the statutory 14-day deadline i.e. The FAC Notice of Appeal Forms must be received by this office along with the €200 fee within 14 days of the DAFM decision.

If you do not receive an acknowledgement of your appeal please contact the Forestry Appeals Committee via Tel (057) 8667167, or e-mail: forestry@agriappeals.gov.ie.

13. Processing of your appeal and sharing of information

Data Protection – GDPR

- i. The Forestry Appeals Committee (FAC) collects personal data to process appeal applications personal data may be used for statistical, research and analysis purposes in some circumstances, but will only be done so in compliance with the Data Protection legislation in force. Data used for such purposes will be pseudonymised (masked) or anonymised, as appropriate, to protect to the security and confidentiality of the data. The use of the data in this way may facilitate the Forestry Appeals Committee (FAC) in informing policy decisions into the future. The FAC is fully committed to keeping all personal data submitted by its customers fully safe and secure during administrative processes.
- ii. The AAO, when processing a FAC appeal, may share data collected from the appellant with other relevant parties and the appeal data may be included in the record of and read publicly at any oral hearing held for the relevant appeal and may be published on a public website. The Agricultural Appeals Act 2001, as amended, and Forestry Appeals Committee Regulations 2020 provides for this sharing of data.
- iii. The DAFM Statement on the grounds of appeal will be provided to all parties to the appeal.
- iv. Information relating to appeals shall be retained by the FAC for a minimum of 7 years.

Version: 04/06/2023

- 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)

STATEMENT ATTACHED

2 PAGES

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: 20/2/22

CN 89154 KNOCKMALL 9/2/22

Numerous appeals have been submitted regarding the last 3 attempts to destroy our little townland and yet here I am again trying to defend our little piece of ground that our family worked hard to pass on and which in turn I would hope will pass on to the next generation.

The reasons haven't changed for our appeal – flowery language and the changing of conditions on letters does not and will not deter me from appealing for a 4th time

The flooding of this area is a fact. The detrimental flooding in 4 out of the past 12 years is also a fact – photographs have been sent, statements have been made and sandbags have been issued. As I sit here this evening 20th February the swans are approximately 20 yards from my front door. The heavy rains of Eunice, Dudley and the onset of Franklin storms have all brought the water levels up to a low flood level in approximately a week. If you allow this plantation with hundreds of trees, the water can only rise quicker as, as the tree matures, it takes up space leaving the water with no option but to rise quicker and closer to our house. If some fail and fall in a few years, it doesn't take a mathematician to work out that they take up more space.

The applicant has seen these floods and has no doubt decided that it doesn't matter to him, which it may not but, as it has today, already risen to where his trees may be planted, will matter as they will fail. Regardless of them being native, there is a reason only and odd tree will grow in peat soil and that's what it is. That is what all of the wild bogs surrounding them and us prove, nothing will grow. The swans, the jacksnipe, the ducks, some water fowl, they all prove that this is marsh/peat land. It is under review for proposed natural heritage area as it should be- nothing else can thrive. And with a plantation comes the influx of other lovely "native" creatures, mink, red squirrel along with pine-martin and rats will ensure that our little waterfowl will not survive long as they wreak havoc on their young and encroach further upland to take all birds eggs as they go. Things are bleak enough without bringing in a "protected" species with no natural predators.

About 2-3 acres is grazing ground for cattle and was sufficient to raise plenty of cattle in its day and earn an income for past generations. But that would not raise the premium that these trees will raise for its owner. This is a solely financial transaction, despite words to the contrary. This is not about making a greener earth. Its about making the bank balance greener. You are disregarding a whole community who have lived here for generations and ignored their grievances. You have had appeals from them all but now you decide to put a greater tithe on appealing to try to keep the little man down. I have no animosity towards the applicant but I will not be summoned to "hold court" in his premises that he visits from time to time. This is his holiday home with his primary residence 80miles away from this proposed plantation. This weekend is the first time he has been here in 7 weeks. If they had moved in and lived in the community and spent their time here, he may have seen how much we do love and value our townland.

On a physical scale, the plantation will only darken our road and isolate it from other areas as they in time the plantation will become overgrown and leave the road, greasy and algae covered leading to dangerous driving conditions. The size of the machines coming to plant and in time the trucks that will come to thin and clearfell will also destroy the road and cause obstruction. I don't know if I will ever see the thinning or the clearfelling but neither will the applicant. However our daughter will have to endure it, if our house has not been a) flooded b)so devalued its not worth selling or c) derelict as it pushes more people away from the community.

PG 1

20/2/22

CN 87154 KNOCKHALL 9/2/22

At the present time, the flooding not only leads to physical damage on the road but is a constant worry for us. We look at the flood water rising and the rainfall and try to keep positive that it won't affect usthis year. This is a genuine and debilitating fear that this plantation will only add to. I am not being over dramatic in that statement. Sleepless nights as the rain falls heavily is a genuine and yearly event. More trees will add to that fear.

We had to jump through hoops with council etc when we went to build our house – neighbours being threatened with sterilization of land if they tried to build more than one house on their own land. It could be seen from the Shannon and there might be drainage issues – why are there no drainage issues being highlighted now. There is a main drain on the southern side of the proposed plantation that needs and has been cleaned to ensure the water does not rise to neighbouring houses. What happens when in 10 years if this proposed plantation matures and becomes overgrown and maintenance is not possible and where the owner has maybe sold it on etc? There won't be much regard for us as a community then.

Basically, should this go ahead, our houses, our heads and our community will die within its lifetime – we shall not see it happen and will fight to the final stamp to ensure it doesn't

I would ask you graciously to look upon this with compassion for a small community on the banks of the Shannon trying to survive. God knows it's hard enough as it is.

PG 2

20/2/22

CN 89154 20/2/22



Winter has gone
but flooding only starting Taken 20/2/22

CN 89154 2012/22



Tawun 20/2/22

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? | v.05Nov19 |
| 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 | <input checked="" type="checkbox"/> | Confirm recommendation to grant licence | <input type="checkbox"/> | Revise conditions of licence | <input type="checkbox"/> | Remit licence for reassessment | <input type="checkbox"/> | Revoke licence | <input type="checkbox"/> |
|-----------|-------------------------------------|---|--------------------------|------------------------------|--------------------------|--------------------------------|--------------------------|----------------|--------------------------|

- All guidelines relating to setbacks will have to be adhered to as outlined in the environmental requirements for afforestation.
- All water/environmental features and water quality concerns are addressed in the Environmental Requirements for Afforestation document.
- A drainage survey was carried out by a suitably qualified chartered engineer.
- The road adjoining the proposal is a public road. Road safety issues are a matter for the local authority and or the Gardai.
- While part of the proposed project area floods seasonally, the tree species approved will tolerate these events.
- The issues raised by the appellant do not provide sufficient grounds for DAFM to change its conditions of approval.

Name: Momme Reibisch

Role: Forest Service District Inspector

Date: 14/06/2022



Forestry Division Statement to the Forestry Appeals Committee

| | |
|------------------|---------------|
| FAC Reference | FAC011/2022 |
| File Reference | CN89154 |
| Scheme | Afforestation |
| Species proposed | GPC 10 – NWE |
| Approved Area | 7.47 Hectares |

Summary of application:

| | |
|---|---|
| Date Submitted | 14/07/2021 |
| Site Notice date | 07/07/2021 |
| Date Application Advertised | 11/08/2021 |
| Referrals to referral bodies | An Taisce 16/08/2021 - Reply 13/09/2021 (Scan 13/09/2021) National Parks & Wildlife Service 16/08/2021 – Reply 22/09/2021 (Appendix) (Scan 22/09/2021) Roscommon County Council 16/08/2021 – Reply (Scan date) 22/09/2021 |
| Referral to Ecology | NIS CN79583 11/05/2021 by Saoirse O'Donoghue, Consultant Ecologist, North-West Ecology Ltd., submitted with application for applicant / forester NIS CN89154 11/05/2021 (Scan 11/08/2021) by Saoirse O'Donoghue, Consultant Ecologist, North-West Ecology Ltd., submitted with application for applicant / forester AA Screening Report & Determination 27/01/2022 by Alan Booth, Ecologist on behalf of DAFM AAD 27/01/2022 by Alan Booth, Ecologist on behalf of DAFM. |
| Date Referred to Inspector | 16/08/2021 Certified 16/08/2021 04/10/2021 Certified 09/02/2022 Inspect at 1 st Instalment |
| Desk Assessment/Desk & Field Assessment | Field & Desk Assessment: Site inspected by a DAFM Inspector |
| Submissions Received | Submissions received: 03/09/2021 2, 06/09/2021 1, 08/09/2021 5, |

| | |
|----------------------------------|--|
| Appropriate Assessment Screening | Natura Site 1, 2, 3, 4, 5 - Screen Out: No likelihood of a significant effect on any European site, and Appropriate Assessment not required. (See Ecology above) |
| Recommendation from Inspector | Approve with Conditions |
| Decision | <p>- 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.</p> <p>- 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.</p> <p>- Upon commencement of work on site, the licensee shall notify the Department in writing. Any necessary additional documentation, as may be required by a condition attached to the Licence, shall be included with this Notice of Commencement. Where grant aid is involved, this notice is represented by Form 1(b): Notice of Substantial Commencement, completed by the Licensee and the Registered Forester. In situations where no grant aid is involved, the notice must be in the form of a signed letter. Reason: To enable the Department to verify compliance with the Licence and the conditions attached thereto.</p> <p>- Condition: Adhere to the mitigation measures set out in the attached Appropriate Assessment Determination, dated 27/01/2022. Reason: In the interests of protection of the environment, in particular the protection of European Site(s).</p> <p>- Native woodland scenarios are to be adhered to at all time</p> |
| Date Decision Issued | 09/02/2022 |
| Date Decision Advertised | 11/02/2022 |

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: 22/07/2022

NOTICE OF APPEAL FORM

Appeal to the Forestry Appeals Committee (FAC)

| | |
|--------------------------|--|
| Official Use Only | FAC Reference _____ |
| Date Received | _____ |
| Received on time? | Yes/No |
| 3rd Party | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Checked by: | _____ |

This form represents the format of appeal required by the FAC and must be employed in submitting an appeal in line with the Forestry Appeals Committee Regulations 2020.

Appeals submitted in any other format will not be accepted.

| Appellant Details | |
|---|--|
| IMPORTANT NOTE: IF THERE IS MORE THAN ONE PERSON MAKING AN APPEAL, A SEPARATE NOTICE OF APPEAL FORM MUST BE SUBMITTED BY EACH APPELLANT. | |
| AN APPEAL RECEIVED WITH MULTIPLE APPELLANTS LISTED WILL BE DEEMED INVALID. | |
| PLEASE COMPLETE ALL FIELDS | |
| 1. Name of Appellant: | _____ |
| 2. Address of Appellant: (Please include Eircode) | _____ |
| 3. Telephone Number: | _____ |
| 4. Email: <small>Please note by providing an email address, all correspondence from the FAC may issue via email</small> | _____ |
| Details of decision of the Minister for Agriculture, Food and the Marine (DAFM) to be appealed A SEPARATE FORM MUST BE COMPLETED FOR EACH DECISION | |
| 5. Decision Reference ¹ : <i>Please tick the appropriate licence type and provide the licence number</i> | <input checked="" type="checkbox"/> Afforestation (CN): <u>89154</u> <input type="checkbox"/> Forest Road Works: (CN): _____ <input type="checkbox"/> Felling Licence: _____ <input type="checkbox"/> Aerial Fertilisation (AFA): _____ |
| 6. Date of Decision under appeal ¹ : | 7. Town land and County: |
| <u>9/2/2022</u> | <u>Drummanmore Kesh/Khall Roscommon</u> |
| 8. Please indicate if you are the APPLICANT ² named in the Decision: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |

¹ Available on DAFM website <https://www.gov.ie/en/publication/64266-forestry/>

² Applicant refers to the person who made the application to the Department of Agriculture Food and the Marine for the licence, approval or entry in a register that is the subject of this appeal.

9. Appellant's Grounds of Appeals and supporting documents/information

The appellant must complete Section 14 overleaf by setting out in writing all of the grounds of appeal that must be specific to the licence including the facts and reasoning on which the appellant intends to rely and in accordance with Section 14.B(4) of the Agriculture Appeals Act 2001 (as amended) must include with their appeal all documents, particulars or other information that they consider relevant and a list of any such documents, particulars or other information.

10. Fee to be included with appeal

The Forestry (Miscellaneous Provisions) Act 2020 provides for the collection of fees of €200. Please include €200 by way of postal order, bank draft or cheque with this form. Payments should be made payable to the Forestry Appeals Committee. Please note that failure to submit the fee with your appeal will result in your appeal being deemed invalid.

11. Hearing of appeals

Appeal hearings are held by the FAC at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois, R32 DTW5, or in another venue in Portlaoise, or when deemed appropriate remotely. The Forestry Appeals Committee shall determine an appeal without an oral hearing unless, having regard to the particular circumstances of the appeal, it considers that it is necessary to conduct an oral hearing in order to properly and fairly determine the appeal. Any fees that any representative(s) may charge or any expenses incurred by the appellant or their representative(s) attending a hearing shall be borne by appellants or their representative(s). Where held, appellants shall be advised of the date, time and location of the oral hearing and it will not be possible to change the date once scheduled. Names of any person(s) accompanying appellants or nominated to attend an oral hearing on an appellant's behalf must be provided on request. Where an email is provided all communications from the FAC may issue via email only.

12. Submission of appeals

Appeals may be submitted by post. The postal address is Forestry Appeals Committee, Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois, R32 DTW5. The Notice of Appeal Form must be signed by the appellant. Appeals and payments that are not received within the statutory deadline cannot be accepted.

Statutory Deadline for Receipt of Appeals

Any decisions issued by the Minister for Agriculture, Food and the Marine (DAFM) are subject to the statutory 14-day deadline i.e. The FAC Notice of Appeal Forms must be received by this office along with the €200 fee within 14 days of the DAFM decision.

If you do not receive an acknowledgement of your appeal please contact the Forestry Appeals Committee via Tel (057) 8667167, or e-mail: forestry@agriappeals.gov.ie.

13. Processing of your appeal and sharing of information

Data Protection – GDPR

- i. The Forestry Appeals Committee (FAC) collects personal data to process appeal applications personal data may be used for statistical, research and analysis purposes in some circumstances, but will only be done so in compliance with the Data Protection legislation in force. Data used for such purposes will be pseudonymised (masked) or anonymised, as appropriate, to protect to the security and confidentiality of the data. The use of the data in this way may facilitate the Forestry Appeals Committee (FAC) in informing policy decisions into the future. The FAC is fully committed to keeping all personal data submitted by its customers fully safe and secure during administrative processes.
- ii. The AAO, when processing a FAC appeal, may share data collected from the appellant with other relevant parties and the appeal data may be included in the record of and read publicly at any oral hearing held for the relevant appeal and may be published on a public website. The Agricultural Appeals Act 2001, as amended, and Forestry Appeals Committee Regulations 2020 provides for this sharing of data.
- iii. The DAFM Statement on the grounds of appeal will be provided to all parties to the appeal.
- iv. Information relating to appeals shall be retained by the FAC for a minimum of 7 years.

Version 10/5/2021

- 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 purposes 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, Kilminehy 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)

I wish to appeal licence no. CV89154 on the grounds that this land is on a flood plain and is a high risk to the surrounding area if planted. I have submitted a 4 page document outlining my concerns, residents, wild life including swans who regularly visit the area, pollution to lake and fish, also to water walls at private dwellings in the area. This land is all peat soil and is surrounded by wild bog. I have also included pictures of the land flooded and map where drains are.

15. Declaration I have marked on the map where the rivers closed in.

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: _____

20/2/2022

Version 10/08/2021

No consideration of the concerns of the many locals who made observations - many of whom are 2nd/3rd generation residents and the universal wish for this plantation application to be denied were ignored by the DAFM. The amount of responses to the initial application (and previous applications) is contrary to the answer to Q11 of the EIA requirement assessment as forest cover in this locality is a very significant issue. This townland has 23.41% forest coverage already and 17.3% within 5kms which is huge given the site is lakeside so the land coverage within 5kms is probably closer to 35%. People are concerned that their properties will devalue further, their children will leave the area, the natural beauty of their area will be diminished and natural ancient habitat, fauna, wildlife and farming culture will gradually disappear

Population of Knockhall townland has halved the last 100 years – partly due to the extensive afforestation that has occurred in the last 40/50 years. As discussed above it is felt that this area already has a very high density of tree cover and continued afforestation will only lead to more depopulation – a phenomenon that is quite visible in the number of young people attending the local schools & gaa club etc and the closure of local businesses

Inadequate consideration given to the highly sensitive, unique and low lying lakeside nature of this site.

The high nature value farmland could be considered peatland due to its low lying marshy and wet grasslands nature. This land should not be used for forestry as its value to the eco system exceeds its value as forestry. Coillte does not apply for new afforestation licences on peatlands

As many neighbours stated this land is subject to flooding and severe floods were experienced in 2009, 2019 and 2020. This refutes the applicants answer to question 2 of the original pre approval submission report where he asserted flooding was not a consideration. Severe flooding events are expected to increase with climate change. The implications of this were ignored as the only reference to flooding in the Appropriate Assessment was that it will not affect the tree species being planted. The purpose of the setback from arterial drains and hedgerows is to protect the drains from excessive organic material runoff and sedimentation entering the drains and the Shannon. Setbacks are irrelevant when almost all the peatland floods on a regular basis and the material is carried into the Shannon anyway

Drains – the land has a number of drains that are crucial to many local houses and farms to remove excess water as quickly as possible. They are not just for the benefit of the landowner. There were 2 drains in plot numbers 6 and 1 filled in many years ago by the previous land owner. This was not approved by either the county council or the neighbours at the time. We have grave concerns that planting trees where these drains once were will have severe flood risk implications for adjoining lands and property and in fact would request that both drains be reinstated. As the trees mature excess vegetation/leaves/branches etc will clog these drains and they will require more clearing than before. Access for machinery will be difficult and the effects on the riparian habitat of more frequent arterial drain clearing will be severe. Recent studies have suggested that drain cleaning can be as bad for the lake as pollution. We also have concerns about the effectiveness of silt traps in flood prone land (not effective), whether the traps will be maintained/emptied adequately, if they will slow the ability of the land to drain and also where the removed silt (if removed) will be dumped. Requiring the installation of silt traps is easy to instruct in an appropriate assessment determination – policing its maintenance is another matter altogether and we fear this is an element of the plantation that will be neglected given that this is not where the applicant lives. Furthermore some of the drainage network is not owned by the plantation applicant and permissions have not been sought from landowners to install silt traps

On 13/9/2021 An Taisce expressed concerns about this plantation and advised much larger setbacks (20m) which were ignored in favour of 10m setback. Quotes from their letter below -

"A water setback is needed to create a buffer of natural ground vegetation positioned between defined water features, and the forest crop and associated operations, thus protecting water quality and aquatic ecosystems from possible sediment and nutrient runoff. In addition to predetermined setbacks for rivers, streams and lakes (both temporary and permanent), the updated Environmental Requirements for Afforestation Guidelines (2016), also apply setbacks for existing drains and channels (relevant watercourses) which are connected to an aquatic zone. These are not shown on an OS 6 inch map, but have the potential to carry significant amounts of sediments and nutrients. In this case, given the mineral peat soil, we would recommend an aquatic zone setback of at least 20 m and a setback on relevant watercourses of 5 m. The application indicates there will be an aquatic setback, but it is smaller than the recommended distance

This is the third application that has been proposed for afforestation adjacent to Lough Bofin in 2021. It is imperative that cumulative impacts to the water quality of Lough Bofin be considered, as although the individual plots may be small, the planting of numerous plots undoubtedly has the potential to alter the integrity and quality of the lough, in addition to the scenic beauty of the area. There must be some strategic oversight of this. The cumulative effects of plans and projects must also be taken into account when considering whether the effect of the plan or project would be likely to be significant. MN2000 and the DAFM Guidance advise that the authorities should consider the cumulative impact of plans or projects which are completed, those which have been approved but not completed and those proposed (but not yet approved)"

The Department of Housing, Local Government and Heritage wrote

"the general duties placed on all public authorities² by Regulation 27 of the 2011 Regulations in relation to European sites. Among other things, this includes a duty to exercise all functions, including but not only consent functions, in compliance with, and so as to secure compliance with the requirements of the Habitats and Birds Directives and the 2011 Regulations. Public authorities are obliged, when exercising their functions, to take appropriate steps to avoid, in European sites, the deterioration of natural habitats and the habitats of species, as well as disturbance of species for which a site has been designated insofar as this disturbance could be significant in relation to the objectives of the Habitats Directive; • general obligations in relation to protected species of flora and fauna and their key habitats, including breeding sites and resting places, wherever they occur, under the 2011 Regulations (i.e. strictly protected Habitats Directive Annex IV species), and Wildlife Acts, 1976-2018. Derogation licences may be required from the NPWS where protected species, or their key habitats, would be damaged or disturbed in the course of forestry development, works or other activities; • general obligations not to cause or allow 'environmental damage' to occur, as defined in the Environmental Liability Directive (2004/35/EC) and European Communities (Environmental Liability) Regulations, 2008, and including damage to 'protected species and natural habitats'³ "

In the event that it is determined that an appropriate assessment is required, the relevant legislation should be followed, and the standards established by case law of the Court of Justice of the European Union should be noted. In the case of the latter, for example, you may be aware that the Court of Justice has established that an appropriate assessment cannot have lacunae, and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of a project on the European site(s) concerned.

Environmental Impact Assessment (EIA) Consideration should be given to potential impacts on biodiversity as part of the consideration of the need for EIA in relation to forestry applications as set out in the Forestry Act 2014 and Regulations made thereunder. Where proposals fall below the thresholds for mandatory EIA, set out in the Forestry Regulations, 2017, consideration should be given to the need for a sub-threshold Environmental Impact Assessment (EIA)

Other Biodiversity Considerations Particular consideration should be given to the following matters as part of a general consideration of potential impacts on biodiversity, and in any consideration of the need for sub-threshold EIA, arising from forestry applications including: • The presence of, and potential effects on strictly protected 'Annex IV' species (Habitats Directive), and their key habitats (i.e. Breeding sites and resting places) in the course of clear-felling, replanting and any associated works and development. • The need for derogation licences under the European Communities (Birds and Natural Habitats) Regulations, 2011-2015, for the above. • The presence of, and potential effects on any other protected species of flora or fauna (Wildlife Acts, 1976-2018), and their key habitats (i.e. Breeding sites and resting places) in the course of clear-felling, replanting and any associated works and development. • The need for any licences under the Wildlife Acts, 1976-2018, for the above"

It is our contention that the consideration of the above by DAFM was cursory and not nearly detailed enough. We feel that the exceptional biodiversity of this highly sensitive and unique site, in a flood prone area on the banks of the largest river in Ireland has been largely ignored by DAFM. There are many fish species in the river along with rare white clawed crayfish, lampreys and swan and duck mussels who's habitats will be impacted when the river floods or arterial drain cleaning is undertaken. Furthermore the Lough Forbes special area of conservation is only 6.5kms downstream and will not be protected by silt traps when the river floods. There are also otters, badgers, pine martins, foxes and hares who will lose foraging habitat when the trees mature. In addition habitat for birdlife will be severely diminished with the loss of ground vegetation and insects.

Immediately north of this site there is a natural wild peatland (a proposed natural heritage area) which was not considered in the reports. We feel this peatland, together with this adjoining marshy land is perfect habitat for endangered ground nesting bird species such as Corncrake and birds of prey such as the Hen Harrier which could easily be reintroduced to this area. The unique fauna and insect species associated with such peatlands should also be preserved.

The shores of Lough Bolin are also a proposed natural heritage area - If this was re-designated as a natural heritage area this plantation would not be allowed. It is unclear why DAFM have ignored this fact given that this plantation is bounded by 2 pNHA's to the north and east and also the high likelihood that re-designation to full natural heritage area happening.

The appropriate assessment determination concludes as follows

"It is concluded that there is no possibility that the proposed felling and reforestation project CN89154, with mitigation measures set out in Section 4, will itself, i.e., individually, giving rise to an adverse effect on the integrity of the following European Sites and their associated Qualifying Interests / Special Conservation Interests and Conservation Objectives: Lough Forbes Complex SAC IE0001818. Therefore, there is no potential for the proposed project to contribute to any cumulative adverse effect on the integrity of the above European Site(s), when considered in combination with other plans and projects"

4

This is a rather grand statement and the DAFM relies on the passage of time to mitigate this assertion as realistically it could be 5-10 years before the disastrous consequences of this plantation and the other water side plantations taking over the area become fully clear

This is an area of outstanding natural beauty with a vibrant (but declining) community who universally oppose this plantation and have many significant concerns regarding biodiversity, fauna, drainage, lake pollution, birdlife, wildlife, visual appeal, impact on the adjoining wild bog etc. The DAFM seems determined to ignore these serious and valid concerns in order to reach its plantation numbers. The inadequate natura impact statement (undertaken on behalf of the land owner) and appropriate assessment (undertaken on behalf of the DAFM) should be set aside and this plantation refused or at the very least a proper unbiased environmental impact assessment prepared that covers the very significant environmental issues surrounding this site



Cidrance Survey Ireland Licence No. EN 0013413 Copyright Ordnance Survey Ireland/Government of Ireland
Unauthorized reproduction is not permitted. This map is for **23 Jul 2021** use only

Contract **CN89154** Scale 1:5000





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? | v.05Nov19 |
| 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 | <input checked="" type="checkbox"/> | Confirm recommendation to grant licence | <input type="checkbox"/> | Revise conditions of licence | <input type="checkbox"/> | Remit licence for reassessment | <input type="checkbox"/> | Revoke licence | <input type="checkbox"/> |
|-----------|-------------------------------------|---|--------------------------|------------------------------|--------------------------|--------------------------------|--------------------------|----------------|--------------------------|

- All guidelines relating to setbacks will have to be adhered to as outlined in the environmental requirements for afforestation.
- This site was desk and field assessed by the DAFM inspector. The site was approved adhering to all standard operating procedures and guidelines at the time of approval. An AA screening was carried out and it was deemed that an appropriate assessment was required. Appropriate Assessment was carried out by a DAFM ecologist.
- All water/environmental features and water quality concerns are addressed in the Environmental Requirements for Afforestation document.
- A drainage survey was carried out by a suitably qualified chartered engineer.
- NIS submitted by the applicant was reviewed by a DAFM ecologist.
- While part of the proposed project area floods seasonally, the tree species approved will tolerate these events. No drainage, fertilizer or herbicide is approved for this application.

Name: Momme Reibisch

Role: Forest Service District Inspector

Date: 09/06/2022



Forestry Division Statement to the Forestry Appeals Committee

| | |
|------------------|---------------|
| FAC Reference | FAC012/2022 |
| File Reference | CN89154 |
| Scheme | Afforestation |
| Species proposed | GPC 10 – NWE |
| Approved Area | 7.47 Hectares |

Summary of application:

| | |
|---|---|
| Date Submitted | 14/07/2021 |
| Site Notice date | 07/07/2021 |
| Date Application Advertised | 11/08/2021 |
| Referrals to referral bodies | An Taisce 16/08/2021 - Reply 13/09/2021 (Scan 13/09/2021) National Parks & Wildlife Service 16/08/2021 – Reply 22/09/2021 (Appendix) (Scan 22/09/2021) Roscommon County Council 16/08/2021 – Reply (Scan date) 22/09/2021 |
| Referral to Ecology | NIS CN79583 11/05/2021 by Saoirse O'Donoghue, Consultant Ecologist, North-West Ecology Ltd., submitted with application for applicant / forester NIS CN89154 11/05/2021 (Scan 11/08/2021) by Saoirse O'Donoghue, Consultant Ecologist, North-West Ecology Ltd., submitted with application for applicant / forester AA Screening Report & Determination 27/01/2022 by Alan Booth, Ecologist on behalf of DAFM AAD 27/01/2022 by Alan Booth, Ecologist on behalf of DAFM. |
| Date Referred to Inspector | 16/08/2021 Certified 16/08/2021 04/10/2021 Certified 09/02/2022 Inspect at 1 st Instalment |
| Desk Assessment/Desk & Field Assessment | Field & Desk Assessment: Site inspected by a DAFM Inspector |
| Submissions Received | Submissions received: 03/09/2021 2, 06/09/2021 1, 08/09/2021 5, |

| | |
|----------------------------------|--|
| Appropriate Assessment Screening | Natura Site 1, 2, 3, 4, 5 - Screen Out: No likelihood of a significant effect on any European site, and Appropriate Assessment not required. (See Ecology above) |
| Recommendation from Inspector | Approve with Conditions |
| Decision | <p>- 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.</p> <p>- 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.</p> <p>- Upon commencement of work on site, the licensee shall notify the Department in writing. Any necessary additional documentation, as may be required by a condition attached to the Licence, shall be included with this Notice of Commencement. Where grant aid is involved, this notice is represented by Form 1(b): Notice of Substantial Commencement, completed by the Licensee and the Registered Forester. In situations where no grant aid is involved, the notice must be in the form of a signed letter. Reason: To enable the Department to verify compliance with the Licence and the conditions attached thereto.</p> <p>- Condition: Adhere to the mitigation measures set out in the attached Appropriate Assessment Determination, dated 27/01/2022. Reason: In the interests of protection of the environment, in particular the protection of European Site(s).</p> <p>- Native woodland scenarios are to be adhered to at all time</p> |
| Date Decision Issued | 09/02/2022 |
| Date Decision Advertised | 11/02/2022 |

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: 22/07/2022

Grounds of Appeal

NOTICE OF APPEAL FORM

Appeal to the Forestry Appeals Committee (FAC)

| | |
|-------------------|--|
| Official Use Only | FAC Reference: _____ |
| Date Received | _____ |
| Received on time* | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 3rd Party | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Checked by: | _____ |

This form represents the format of appeal required by the FAC and must be employed in submitting an appeal in line with the Forestry Appeals Committee Regulations 2020.

Appeals submitted in any other format will not be accepted.

| Appellant Details | |
|--|---|
| IMPORTANT NOTE: IF THERE IS MORE THAN ONE PERSON MAKING AN APPEAL, A SEPARATE NOTICE OF APPEAL FORM MUST BE SUBMITTED BY EACH APPELLANT. | |
| AN APPEAL RECEIVED WITH MULTIPLE APPELLANTS LISTED WILL BE DEEMED INVALID. PLEASE COMPLETE ALL FIELDS. | |
| 1. Name of Appellant: | _____ |
| 2. Address of Appellant: (Please include Eircode) | _____ |
| 3. Telephone Number: | _____ |
| 4. Email: (Please use a valid email address for all correspondence from the FAC and make sure you are correct) | _____ |
| Details of Decision of the Minister for Agriculture, Food and the Marine (DAFM) to be appealed A SEPARATE FORM MUST BE COMPLETED FOR EACH DECISION | |
| 5. Decision Reference ¹ : <i>Please see the appropriate decision paper and provide the decision number</i> | <input checked="" type="checkbox"/> Abolition (CN): <u>CN 89154</u> <input type="checkbox"/> Local Road Works (CN) <input type="checkbox"/> Felling Licence: <input type="checkbox"/> Aerial Fertilisation (AFV) |
| 6. Date of decision under appeal ² : <u>9TH FEBRUARY 2022</u> | 7. Townland and County: <u>KNOCKHALL, CO ROSCOMMON</u> |
| 8. Please indicate if you are the APPLICANT named in the Decision: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |

¹ Available on COME website (<http://www.comeregion.gov.ie>) or on the website of the Department of Agriculture, Food and the Marine for the licence (<http://www.dafm.gov.ie>) or on the website of the Forestry Commission (<http://www.forestservice.ie>).

9. Appellant's Grounds of Appeals and supporting documents/information

The appellant must complete Section 11 overleaf by setting out in writing all of the grounds of appeal that must be specific to the licence, including the facts and reasoning on which the appellant intends to rely and in accordance with Section 14(3-4) of the Agriculture Appeals Act 2001 (as amended) must include with their appeal all documents, particulars or other information that they consider relevant and a list of any such documents, particulars or other information.

10. Fee to be included with appeal

The Forestry (Miscellaneous Provisions) Act 2020 provides for the collection of fees of €200. Please include €200 by way of postal order, bank draft or cheque with this form. Payments should be made payable to the Forestry Appeals Committee. Please note that failure to submit the fee with your appeal will result in your appeal being deemed invalid.

11. Hearing of appeals

Appeal hearings are held by the FAC at the Agriculture Appeals Office, Kilminehy Court, Portlaoise, Co. Laois, R32 DTW5, or in another venue in Portlaoise, or when deemed appropriate remotely. The Forestry Appeals Committee shall determine an appeal without an oral hearing unless, having regard to the particular circumstances of the appeal, it considers that it is necessary to conduct an oral hearing in order to properly and fairly determine the appeal. Any fees that any representative(s) may charge or any expenses incurred by the appellant or their representative(s) attending a hearing shall be borne by appellants or their representative(s). Where held, appellants shall be advised of the date, time and location of the oral hearing and it will not be possible to change the date once scheduled. Names of any person(s) accompanying appellants or nominated to attend an oral hearing on an appellant's behalf must be provided on request. Where an email is provided all communications from the FAC may issue via email only.

12. Submission of appeals

Appeals may be submitted by post. The postal address is Forestry Appeals Committee, Agriculture Appeals Office, Kilminehy Court, Portlaoise, Co. Laois, R32 DTW5. The Notice of Appeal Form must be signed by the appellant. Appeals and payments that are not received within the statutory deadline cannot be accepted.

Statutory Deadline for Receipt of Appeals

Any decision issued by the Minister for Agriculture, Food and the Marine (DAFM) are subject to the statutory 14-day deadline i.e. The FAC Notice of Appeal Form must be received by this office along with the €200 fee within 14 days of the DAFM decision.

If you do not receive an acknowledgment of your appeal please contact the Forestry Appeals Committee via Tel (057) 8667107 or e-mail: forestry@agnappeals.gov.ie.

13. Processing of your appeal and sharing of information

Data Protection – GDPR

- i. The Forestry Appeals Committee (FAC) collects personal data to process appeal applications. Personal data may be used for statistical, research and analysis purposes in some circumstances, but will only be done so in compliance with the Data Protection legislation in force. Data used for such purposes will be pseudonymised (masked) or anonymised, as appropriate, to protect to the security and confidentiality of the data. The use of the data in this way may facilitate the Forestry Appeals Committee (FAC) in informing policy decisions into the future. The FAC is fully committed to keeping all personal data submitted by its customers fully safe and secure during administrative processes.
- ii. The AAO, when processing a FAC appeal, may share data collected from the appellant with other relevant parties and the appeal data may be included in the record of and read publicly at any oral hearing held for the relevant appeal and may be published on a public website. The Agriculture Appeals Act 2001, as amended, and Forestry Appeals Committee Regulation 2020 provides for this sharing of data.
- iii. The DAFM Statement on the grounds of appeal will be provided to all parties to the appeal.
- iv. Information relating to appeals shall be retained by the FAC for a minimum of 7 years.

Version 1.0/07/2021

- v. Transparency and openness in the use of personal data is important to the OAC, which of us to fully inform all its customers about the purposes 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 OAC. This information and the information on the rights of customers who provide personal data to the OAC are detailed in the data protection section on the Appeals Office's website www.aggriappeals.gov.la.
- vi. Personal data processed by the OAC will only be used for the specific purposes as outlined when the data is collected. Source of Appeal Form and is outlined in detail in the data protection section on the OAC's website www.aggriappeals.gov.la.
- vii. Please be advised that if you are attending the Agriculture Appeals Office, 15-minich, Court, Portlaoise, Co. Laois, R32 D1W5 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.aggriappeals.gov.la.

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

See Attached

15. Declaration

By signing the declaration below you are making an appeal against the decision referred to on this Notice of Appeal Form and declaring that your appeal details have been provided to other relevant parties and may be included in the record of and read publicly in a written 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 11, 12 to 14 of the Agriculture Appeals Act, 2001, the Forestry (Miscellaneous Provisions) Act, 2020 and the Forestry Appeals Committee Regulations 2020.

Signature of Appellant

Date: *20th February 2022*

AFFORESTATION LICENCE NO CN89154, DRUMMANMORE, KNOCKHALL, ROSCOMMON

APPELLANTS GROUNDS AND STATEMENT – JOHN KELLY

Dear Sir/Madam

I have never submitted an appeal of any sort before but as the person most affected by the proposed plantation I feel compelled to make known my absolute opposition to it. Please excuse me if I haven't structured it correctly

- 1 DAFM made little consideration of the concerns of the many locals who made observations - many of whom are 2nd/3rd generation residents and the unanimous desire for this plantation application to be denied were ignored by the DAFM. In Q11 of the EIA requirement assessment the inspector stated that forest cover in the locality was not a concern. This is incorrect as evidenced by the talk in the area and the number of responses made to the initial application. This townland has 23.41% forest coverage already and 17.3% within 5kms which is enormous given the site is lakeside so the land coverage within 5kms is probably closer to 35%. People are very concerned that their properties will devalue further, their children will leave the area, the natural beauty of their area will be diminished and natural ancient habitat, fauna, wildlife and farming culture will gradually disappear. Population of Knockhall townland has halved the last 100 years – partly due to the extensive afforestation that has occurred in the last 40/50 years.
- 2 Inadequate consideration given to the highly sensitive, unique and low lying lakeside nature of this site. The land could be considered peatland due to its low lying marshy and wet grasslands nature and should not be used for forestry as its value to the eco system far exceeds its value as forestry. Coillte does not apply for new afforestation licences on peatlands. As many neighbours stated this land is subject to flooding and severe floods were experienced in 2009, 2019 and 2020. This refutes the applicants answer to question 2 of the original pre approval submission report where he asserted flooding was not a consideration. Severe flooding events are expected to increase with climate change. The implications of this were ignored as the only reference to flooding in the Appropriate Assessment was that it will not affect the tree species being planted. I understand the purpose of the setback from arterial drains and hedgerows is to protect the drains from excessive organic material runoff and sedimentation entering the drains and the Shannon. Setbacks are irrelevant when almost all the site floods on a regular basis and the material is carried into the Shannon anyway
- 3 Inadequate consideration of the importance of drains to low lying flood plain. The land has a number of drains that are crucial to many local houses and farms to remove excess water as quickly as possible. They are not just for the benefit of the landowner and must remain clear. There were 2 drains in plot numbers 6 and 1 filled in many years ago by the previous land owner (see attached maps). This was not approved by either the county council or the neighbours at the time. We have grave concerns that planting trees where these drains once were will have severe flood risk implications for adjoining lands and property and in fact would request that both drains be reinstated. As the trees mature excess vegetation/leaves/branches etc will clog these drains and they will

require more clearing than before. Access for machinery to do this will be difficult and the effects on the riparian habitat of more frequent arterial drain clearing will be severe. Recent studies have suggested that drain cleaning can be as bad for the lake as pollution. To avoid pollution risk (which is much greater with peat like land) to Lough Bofin DAFM have imposed a condition that the applicant installs silt traps. We have concerns about the effectiveness of silt traps in flood prone land (not effective), whether the traps will be maintained/emptied adequately, if they will slow the ability of the land to drain and also where the removed silt (if removed) will be dumped. Requiring the installation of silt traps is easy to instruct in an appropriate assessment determination – policing its maintenance is another matter altogether and we fear this is an element of the plantation that will be neglected given that this is not where the applicant lives and the cost of maintaining the traps. Furthermore some of the drainage network is not owned by the plantation applicant and permissions have not been sought from landowners to install silt traps on their land.

- 4 Scant regard paid to An Taisce concerns by DAFM. On 13/9/2021 An Taisce expressed concerns about this plantation and advised much larger setbacks (20m) which were ignored in favour of 10m setback conditions. They also expressed concerns for the volume of plantations in the area and their effect on the quality of the lough and the beauty of the area. Quotes from their letter below -

"In this case, given the mineral peat soil, we would recommend an aquatic zone setback of at least 20m and a setback on relevant watercourses of 5 m. The application indicates there will be an aquatic setback, but it is smaller than the recommended distance

This is the third application that has been proposed for afforestation adjacent to Lough Bofin in 2021. It is imperative that cumulative impacts to the water quality of Lough Bofin be considered, as although the individual plots may be small, the planting of numerous plots undoubtedly has the potential to alter the integrity and quality of the lough, in addition to the scenic beauty of the area. There must be some strategic oversight of this. The cumulative effects of plans and projects must also be taken into account when considering whether the effect of the plan or project would be likely to be significant."

- 5 Department of Housing, Local Government and Heritage provided a detailed outline regarding European sites, Habitats and Birds Directives, protection of habitats, flora and and wildlife etc. An important quote from their letter

"for example, you may be aware that the Court of Justice has established that an appropriate assessment cannot have lacunae, and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of a project on the European site(s) concerned"

It is our contention that the consideration of the above by DAFM was cursory and not nearly thorough enough given the Lough Forbes SAC is only 6.5kms downstream. We feel that the exceptional issues and biodiversity of this highly sensitive and unique site, in a flood prone area on the banks of the largest river in Ireland has been largely ignored by DAFM. There are many fish species in the river along with rare white clawed crayfish, lampreys and swan and duck mussels

whose habitats will be impacted when the river floods or arterial drain cleaning is undertaken. Furthermore the Lough Forbes special area of conservation is only 6.5kms downstream and will not be protected by silt traps when the river floods. There are also otters, badgers, pine martins, foxes and hares who will lose foraging habitat when the trees mature. In addition habitat for birdlife will be severely diminished with the loss of ground vegetation and insects.

6 Inadequate consideration of the adjacent pNHA. Immediately north of this site there is a natural wild peatland/bog which is a proposed natural heritage area and was not adequately considered in the reports. We feel this peatland, together with this adjoining marshy land is perfect habitat for endangered ground nesting bird species such as Corncrake and birds of prey such as the Hen Harrier which could easily be reintroduced to this area. The unique fauna and insect species associated with such peatlands should also be preserved. The shores of Lough Bofin are also part of the same proposed natural heritage area and if this was re-designated as a natural heritage area tomorrow this plantation would not be allowed. It is unclear why DAFM have ignored this fact given that this plantation is bounded by a pNHA to the north and east which is likely to be re-designated as full natural heritage area in due course

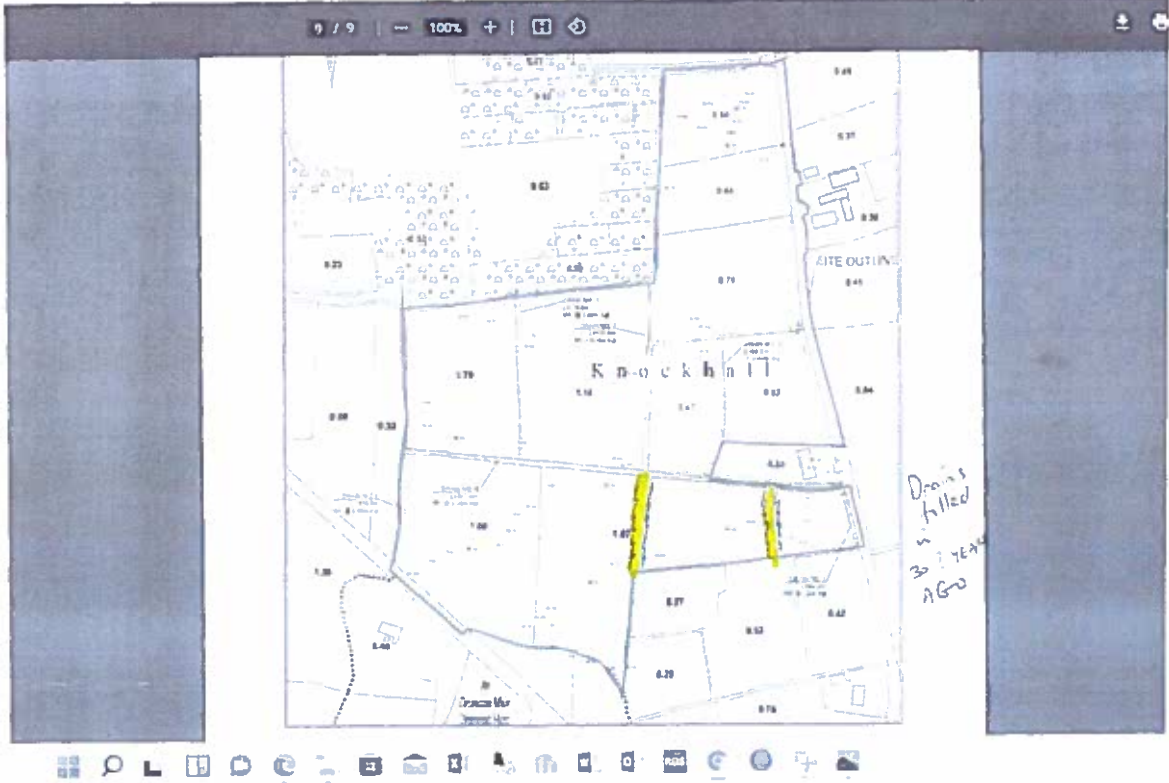
The appropriate assessment determination concludes as follows

"It is concluded that there is no possibility that the proposed felling and reforestation project CN89154, with mitigation measures set out in Section 4, will itself, i.e., individually, giving rise to an adverse effect on the integrity of the following European Sites and their associated Qualifying Interests / Special Conservation Interests and Conservation Objectives: Lough Forbes Complex SAC IE0001818. Therefore, there is no potential for the proposed project to contribute to any cumulative adverse effect on the integrity of the above European Site(s), when considered in-combination with other plans and projects"

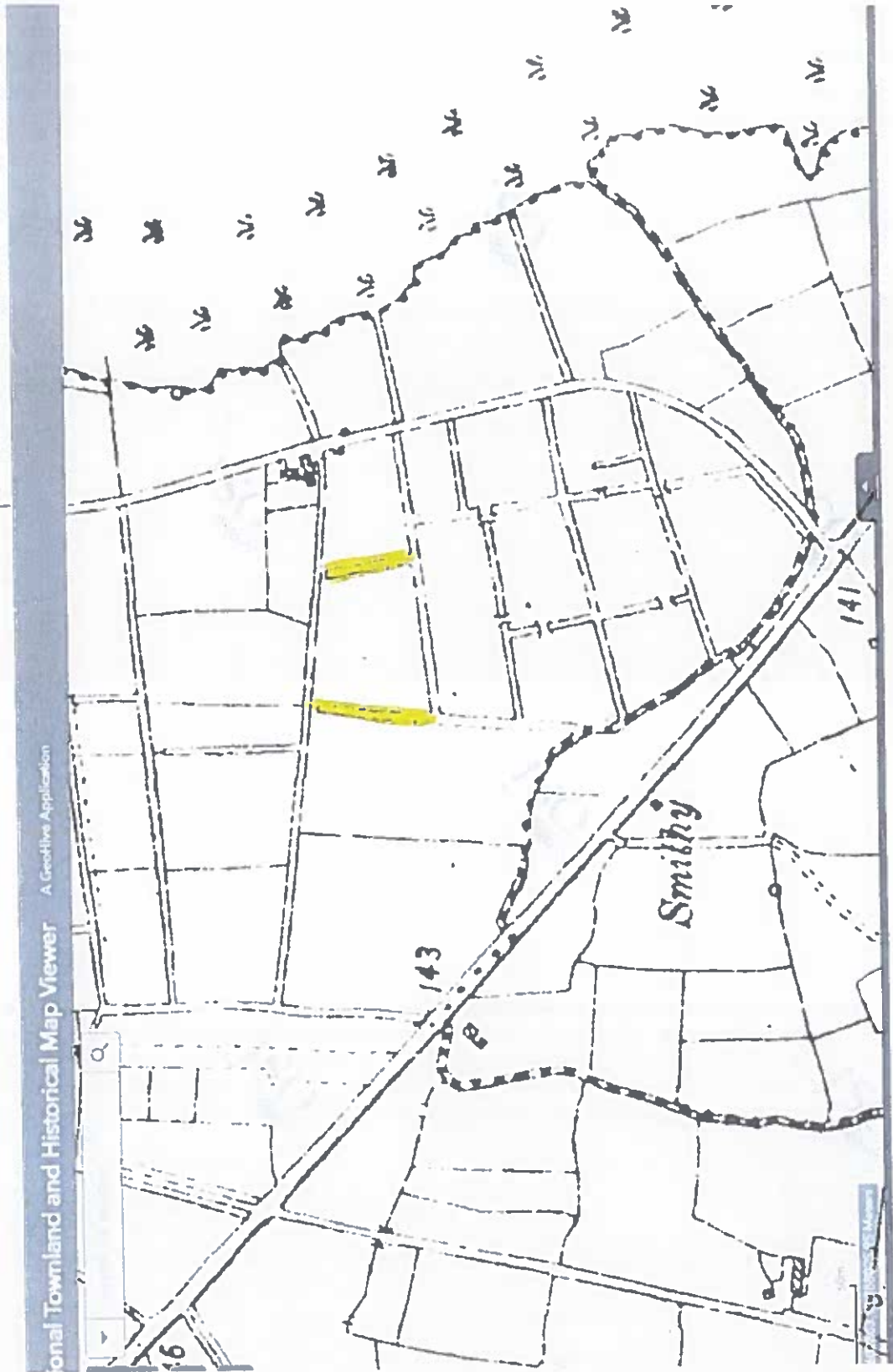
This is a rather grand, unprovable statement that could be subject to legal challenge in time. The DAFM relies on the passage of time to mitigate this assertion as realistically it could be 5-10 years before the disastrous consequences of this plantation and the other water side plantations taking over the area become fully clear. The Lough Forbes SAC after all is only a mere 6.5kms downstream but there is a lot of wildlife, fish and fauna much closer to home that needs our protection.

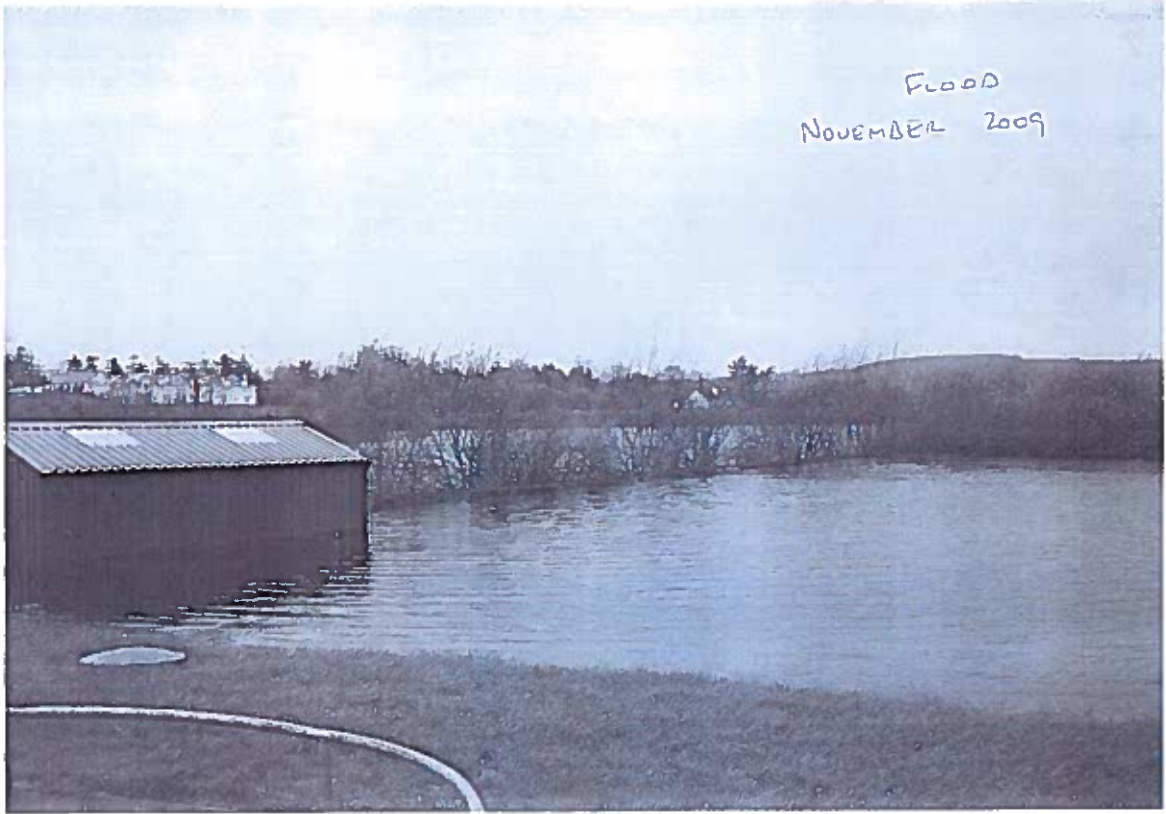
This is an area of outstanding natural beauty with a vibrant (but declining) community who universally oppose this plantation and have many significant concerns regarding biodiversity, fauna, drainage, lake pollution, birdlife, wildlife, visual appeal, impact on the adjoining wild peatland/bog etc. They also feel there is already far too much forestry already in the area. The DAFM seems determined to ignore these serious and valid concerns in order to reach its plantation numbers. The inadequate natural impact statement (undertaken on behalf of the land owner) and appropriate assessment (undertaken on behalf of the DAFM) should be set aside and this plantation licence refused or at the very least a proper unbiased environmental impact assessment prepared that covers the very significant environmental and human issues surrounding this site

modern map



Map early 1900's







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? | v.05Nov19 |
| 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 | <input checked="" type="checkbox"/> | Confirm recommendation to grant licence | <input type="checkbox"/> | Revise conditions of licence | <input type="checkbox"/> | Remit licence for reassessment | <input type="checkbox"/> | Revoke licence | <input type="checkbox"/> |
|-----------|-------------------------------------|---|--------------------------|------------------------------|--------------------------|--------------------------------|--------------------------|----------------|--------------------------|

- All guidelines relating to setbacks will have to be adhered to as outlined in the environmental requirements for afforestation.
- This site was desk and field assessed by the DAFM inspector. The site was approved adhering to all standard operating procedures and guidelines at the time of approval. An AA screening was carried out and it was deemed that an appropriate assessment was required. Appropriate Assessment was carried out by a DAFM ecologist.
- All water/environmental features and water quality concerns are addressed in the Environmental Requirements for Afforestation document.
- A drainage survey was carried out by a suitably qualified chartered engineer.
- NIS submitted by the applicant was reviewed by a DAFM ecologist.
- While part of the proposed project area floods seasonally, the tree species approved will tolerate these events. No drainage, fertilizer or herbicide is approved for this application.

Name: Momme Reibisch

Role: Forest Service District Inspector

Date: 09/06/2022