

Coogan, Mary

From: Coogan, Mary
Sent: Friday 10 June 2022 17:52
To: forestry agriappeals
Cc: Connaire, Daniel; OBrien, MichaelG; Forestry Support Unit; Coogan, Mary
Subject: DAFM Statement FAC006/2022 CN89664
Attachments: CN89664 DAFM Statement FAC006 2022.docx

Please note that DAFM Statement FAC006/2022 CN89664 has been uploaded to FAC Cloud Link today.

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

Regards,

Mary Coogan,

Forestry Support Unit.

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

An Roinn Talmhaíochta, Bia agus Mara
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Forestry Division Statement to the Forestry Appeal Committee

FAC Reference	FAC006/2022
File Reference	CN89664
Scheme	Afforestation
Species proposed	GPC 3
Approved Area	5.55 hectares

Summary of application:

Date Submitted	07/10/2021
Site Notice Date	(11/10/2021 – 5.26 hectares) Revised site notice 12/11/2021 – 5.57 hectares
Date Application Advertised	01/12/2021
Referrals to referral bodies	No referrals
Date referred to Inspector	01/12/2021- Certified 19/01/2022
Desk Assessment/Desk & Field Assessment	Desk and Field Assessment, Field inspection 10/12/2021 (SMS sent: 09/12/2021) Inspect at 1 st Instalment
Submissions Received	No submissions
Appropriate Assessment Screening	Natura Sites 1,2,3, Screen Out: No likelihood of a significant effect on any European sites and Appropriate assessment not required. (Appropriate Assessment Pre-Screening Report 26/11/2021 received on behalf of applicant – scan 30/11/2021)
Recommendation from Inspector	Approve with conditions
Decision	- The afforestation project and all associated operations shall be carried out and completed in accordance with the measures set out in the Environmental Requirements for Afforestation and the Forestry Standards Manual (as amended by periodic Circulars). Reason: In the interest of clarity and to ensure good forest practice and the protection of the environment. - All existing trees and hedgerows within the site shall be retained.

	<p>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>- A setback with a minimum width of 60 metres shall be installed from the dwelling houses at ITM (EPSG 2157) Easting: 589709.83 ITM (EPSG 2157) Northing: 826005.48, ITM (EPSG 2157) Easting: 589660.81 ITM (EPSG 2157) Northing: 826133.04 & ITM (EPSG 2157) Easting: 589492.81 ITM (EPSG 2157) Northing: 826164.72 in accordance with Table 5 and Table 6 of the Environmental Requirements for Afforestation. Five rows of broadleaves of native species suited to the immediate site i Birch, Oak, Hazel and Hawthorn where appropriate to be planted at 60m setback.</p> <p>Reason: To protect the visual and residential amenities of property in the vicinity, to prevent encroachment and isolation, the blocking of light and the curtailment of views in relation to dwellings and associated buildings.</p> <p>- An unplanted public road setback of a minimum width of 10 metres (as measured from the surfaced edge of the public road) and accompanied by a 15 metre wide strip of broadleaves of native species suited to the immediate site Birch, Oak, Hazel and Hawthorn where appropriate, shall be installed in all conifer plots adjoining a public road, in accordance with Tables 5 and 6 of the Environmental Requirements for Afforestation.</p> <p>Reason: In the interests of visual amenity and the safety of vehicular traffic and pedestrians.</p> <p>- A setback with a minimum width of 5 metres (as measured from the drip line) shall be installed on both sides of the hedgerows treeline mapped in green on bio map as per section 2.5.4 of the Environmental Requirements for Afforestation.</p> <p>Reason: In the interests of protection of the environment visual amenity and enhancing the biodiversity value of edge habitat onsite, in particular, existing hedgerows and treelines.</p> <p>- Additional broadleaved planting to be focused in plot three, Birch oak and scots pine to be planted in groups of 50 on steeply sloped areas adjoining road.</p> <p>Reason: In the interests of visual amenity, the wildlife value of edge habitats and the biodiversity value of the forest as a whole.</p>
21/01/2022	20/01/2022
Date Decision Advertised	21/01/2022

Administrative Comments:

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

Please see the statement from the Inspectorate.

Name: Mary Coogan

Grade: EO

Date: 10/06/2022

DERRINURN CN 89664 1/2/22
GROUNDS OF APVAL

EIA Screening - Cumulative Impact

- The approximate forest cover within 5km of this project is 42.62%; almost 4 times the national average and significantly in excess of Government targets for national forest cover. This is a densely planted area. The percentage forest cover in the relevant water body is 40.07%.

It is not clear how the Certifying Inspector has reached a conclusion that, in considering the cumulative effect of this application in light of the extent details outlined, he can eliminate the possibility of this project contributing to a significant impact on the environment?

What metrics, criteria or guidance were used to inform this response? Is a Forestry Inspector suitably qualified to make, what is in effect, a planning assessment?

- The EIA Screening indicates that just 0.03% of the Townland of Derrinurn is under forest cover. This is not correct. The Townland of Derrinurn is approximately 59 ha in size and there is a Coillte forest property within the Townland (LM08 DURRINURN) which Coillte records indicate is 5.5 ha in size. Even allowing for the fact that part of that area is unplanted (due to required setbacks) the proportion of the Townland that is under forest cover is significantly in excess of the 0.03% figure which was the basis of the Inspector's determination that an EIA was not required. We would estimate it at 7 to 8% so DAFM's figure is out by a factor of over 20.

In light of this error the FAC must undertake a new EIA Screening if it wishes to affirm this licence.

- The arbitrary EIA Screening Cumulative Impact assessment used by the Forest Service is flawed. Using arbitrary cut offs for area and timeframes does not ensure full compliance with the EIA Directive. There is a significant amount of forest cover in this area and the Department has not provided sufficient evidence that the potential for cumulative impact has been fully and adequately assessed.

2. Access

- Leitrim County Council was not consulted on this application which has an entrance on to the R280
- On the Site Details – Pre Approval form, the applicant has responded to the question

"Do you have adequate access to manage this site?" with "Yes - Adequate Access"

The question relates to management of the site, not merely access to carry out the afforestation works. This is a commercial forestry project and will ultimately result in the harvesting and extraction of timber so management of the site will require consideration of future access requirements.

The access to the property is on a bend on a Regional road and there are not adequate sight lines to meet the technical standard for a Forest Road entrance. No other possible access point is immediately apparent.

In the absence of consultation with the local roads authority the applicant (or their Registered Forester) is not in a position to confirm that there is adequate access on to a Regional Road for the whole project.

The certifying Inspector is not qualified to make a decision regarding adequate access to manage the site where there is an exit on to a Regional Road.

EIA Screening must assess the 'whole project' and to fail to consider future access requirements is not only poor planning it is not consistent with the requirements of the EIA Directive.

If future development consents will be required relating to this project then any argument that those future works will be subject to development consent confirms that there is project splitting in the context of the EIA Directive.

The time to assess future access needs is at the planning (planting) stage.

- The BioMap does not indicate how Plot 1 will be accessed. If there is a road then the BioMap is not legally complete. There is no indication of the suitability of any access road or path for the harvesting of timber for a commercial project.

Forestry Regulations

- The application (BioMap) is not consistent with Article 5 (2) of the Forestry Regulations. All hedgerows are not included. The omissions include the hedgerow bordering the public road and the hedgerows that border the farm track or lane leading in to the site.

The only way that a BioMap can be considered adequate is when it is legally compliant and that is not the case here.

Water Quality

- There is no scientific evidence presented that the Operational Safeguards of 3.7.2 of the Environmental Requirements for Afforestation provide effective protection of water quality. The efficacy of these "Safeguards" cannot be just stated or assumed; it must be evidenced. In the absence of evidence DAFM cannot give assurances that the project will not impact on water quality. The fact that DAFM has commissioned research* indicates that current criteria are based on assumptions or incomplete understanding not evidence capable of removing all reasonable scientific doubt.

*HydroSED is an ongoing DAFM-funded project assessing the hydrological and sediment impacts of forest operations in Ireland, due to conclude in 2024. <https://irishriverproject.com/2021/11/29/hydrosed/> One of the project elements is to assess "*the efficacy and performance of commonly adopted sediment control measures in forests*". Given the need for research to assess the efficacy and performance of these measures, the efficacy and performance of those measures currently unproven.

Landscape

- The Forest Service is not suitably qualified to make assessments on the landscape impact of afforestation applications. The Forestry and Landscape Guidelines are over 21 years old and pre-date the Florence Convention on the Landscape which Ireland ratified in 2004. Co. Leitrim has recently completed a new Landscape Capacity Assessment and we request that the FAC contact Leitrim Co. Co. to secure a copy of the same to determine whether this application is still in a High Capacity Area for forestry development.

Statement from Inspectorate.

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

Statement from Inspectorate.

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

(Tick as appropriate)

No change		Confirm recommendation to grant licence		Revise conditions of licence		Remit licence for reassessment	x	Revoke licence	
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Taking into account the information supplied by the appellant, please provide a statement

DAFM would like to point out that a significant error was identified after the decision was made in relation to some of the EIA outputs on Iforis. % forest cover in the townland was identified as 0.03% on 19th January 2022. This is factually incorrect. % forest cover here is in fact likely 7 to 8%. This error would invalidate the EIA.

Name: Daniel Connaire

Role: Forestry Inspector

Date: 23/05/2022