



23rd May, 2019

Circular 08/2019

To all Registered Foresters and other Stakeholders

Re: Appropriate Assessment

Application stage

All licence applications for afforestation, forest road works, felling and aerial fertilisation are screened by the Department for Appropriate Assessment under Article 6.3 of the Habitats Directive and SI 477 of 2011. Where, having reviewed the application, the Department cannot rule out the possibility of a significant effect on a Natura site (i.e. a SAC or SPA), it will require the submission of a Natura Impact Statement (NIS) from the applicant. On receipt of the NIS, the Department will carry out an Appropriate Assessment.

The provision of a clear, well-prepared licence application, which clearly demonstrates an awareness of any environmental sensitivities involved and which presents details of any standard safeguards integral to the proposed project, may enable the Department to reach a conclusion at screening stage that the possibility of a significant effect on a Natura site(s) does not arise. In such a case, a NIS will not be sought.

At this application stage, it is important to understand the recent rulings in the following Court of Justice of the European Union (CJEU) cases relating to Appropriate Assessment:

- C-323/17 People Over Wind, Peter Sweetman v Coillte Teoranta
- C-258/11 Peter Sweetman and Others v An Bord Pleanála.
- C-164/17 Edel Grace and Peter Sweetman v An Bord Pleanála

NIS stage

Where a NIS is required, guidance is provided in the attached extract from the *Forestry Standards Manual* (November 2015), Appendix 20: NATURA Impact Statement Guidance and Framework.

Ecologists, foresters and other relevant experts preparing the NIS should follow the framework set out in Appendix 20 as closely as possible, as this will enable the Department to systematically assess the NIS.

However, the headings presented in the framework are not exhaustive and all relevant CJEU rulings should be taken into account. In particular, when a NIS is sought, the following CJEU ruling should be taken into account:

- Case C-461/17 Holohan & Others v An Bord Pleanála

particularly (but not exclusively) in relation to the following extract from the ruling: “an ‘appropriate assessment’ must, on the one hand, catalogue the entirety of habitat types and species for which a site is protected, and, on the other, identify and examine both the implications of the proposed project for the species present on that site, and for which that site has not been listed, and the



implications for habitat types and species to be found outside the boundaries of that site, provided that those implications are liable to affect the conservation objectives of the site"

It is also important that any mitigation measures proposed within the NIS are arrived at jointly with the Registered Forester involved, and that clear, detailed site-specific measures and method statements for same are presented.

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