

An
Bord
Pleanála

Inspector's Report ABP-318213-23

Question

Whether the permanent removal of 3.9 hectares of coniferous Sitka Spruce forestry for the purposes of nature conservation and environmental protection at Scohaboy Bog Natural Heritage Area (NHA) (site code 00937) Co. Tipperary is development, and if it is development, whether or not it is exempted development or requires the consent of the local authority.

Location

Scohaboy Bog Natural Heritage Area, Co. Tipperary.

Declaration

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

None

Applicant for Declaration

National Parks & Wildlife Service

Referral

Referred by

National Parks & Wildlife Service
(NPWS)

Owner/ Occupier	Coillte
Observer(s)	None
Date of Site Inspection	9 th August 2024
Inspector	Catherine Dillon

1.0 Site Location and Description

- 1.1. The referral site lies within a rural area on land contained within Scohaboy Bog Natural Heritage Area, and is to the south of Scohaboy (Sopwell) Bog SAC and located approximately 5km south east of Borrisokane and 4km to the north west of Cloughjordan in County Tipperary.
- 1.2. The site is located within a Coillte forest on the southern end of the bog and adjoins an area of forestry on its southern boundary. It is stated the site comprises 3.9 hectares of coniferous forest. The forest area is visible from long distance views from the L-1064 to the east and the R490 to the west.
- 1.3. There is a public walkway within Scohaboy Bog known as 'Loop Laghile Loughlan Walk' with an access off the L-1064 to the north of the referral site. The river known as Ballyfinboy (EPA name) lies approximately 1km to the south of the referral site and the Borriswood stream (EPA name) extends 1km along the northeastern and northern most boundary of the bog. Both watercourses flow in a westerly direction reaching Lough Derg approximately 15km to the west.

2.0 The Question

- 2.1. The question posed by the National Parks & Wildlife Service (NPWS) on behalf of the Minister for the Department of Housing, Local Government and Heritage under Section 5 (8)(a)(ii) of the Planning and Development Act 2000, as amended, is as follows:
 - Whether the permanent removal of 3.9 hectares of coniferous Sitka Spruce Forestry and blocking of drains for the purpose of nature conservation and environmental protection at Scohaboy Bog Natural Heritage Area (NHA) (site code: 00937), Co.Tipperary is development, and if it is development, whether or not it is exempted development.
 - Whether such proposed land management would constitute a material change of use of the land and be development.

3.0 Planning History

3.1. There is no planning history relating to this site.

3.2. To the north of the subject site

P.A Ref: S5/19/50: A request was made under Section 5 of the Planning and Development Act 2000, as amended, by Cloughjordan Community Development Committee to the Planning Authority as to whether or not the installation of an 800m spur section of bog bridge at Scohaboy Bog NHA was development and if so whether it was exempted development. This Section 5 related to lands to the north of the subject site.

On 19th June 2019, further information was requested from the Planning Authority on this declaration on a number of issues which included further information regarding details of planning permission for the existing 1km bog bridge, site layout plan, specific design proposals and ecologist/hydrologist report. There is no record on file of this further information being addressed.

4.0 Policy Context

4.1. Tipperary County Development Plan 2022-2028

- 4.1.1. Tipperary County Development Plan (CDP) 2022-2028 is the relevant Plan for the area. The referral site lies within a rural area and within the Scohaboy Natural Heritage Area (NHA) and is c.700m to the south of Scohaboy Bog SAC boundary.
- 4.1.2. The site lies within the Borrisokane Lowlands Landscape Character Area. In the context of the CDP Landscape Capacity classes, this is a landscape of high capacity/low sensitivity, (Class 2), i.e. Transitional Sensitivity, having a moderate sensitivity to change. The site does not impact any scenic routes or views identified within the CDP and is not located within an identified Primary or Secondary Amenity Area.
- 4.1.3. Chapter 11 of the CDP titled Environment and Natural Assets contains Policies 11-1 to 11-4 and 11-15 which seek to protect biodiversity, NHAs, SAC, SPAs and peatland areas within the county.

4.1.4. There is a Recorded Monument (TN010-112- Enclosure), c.36m to the eastern boundary of the site. Section 13.7 of the CDP relating to archaeology states the full listed monuments for the county are on the National Monuments Service website at <https://www.archaeology.ie/archaeological-survey-ireland>. Policy 13-4 of the CDP seeks to safeguard sites, features and objects of archaeological interest, including Recorded Monuments, National Monuments and Monuments on the Register of Historic Monuments, and archaeological remains found within Zones of Archaeological Potential located in historic towns and other urban and rural areas. In safeguarding such features of archaeological interest, the Council will seek to secure their preservation (i.e. in situ or in exceptional circumstances preservation by record) and will have regard to the advice and recommendation of the Department of Arts, Heritage and the Gaeltacht.

4.2. Natural Heritage Designations

- 4.2.1. The site lies within the Scohaboy Bog Natural Heritage Area (site code: 000937). Scohaboy (Sopwell) Bog Special Conservation Area (SAC) (site code: 002206) is approximately 700m from the northern boundary of the referral site, at its closest point.
- 4.2.2. In addition to the Scohaboy Bog SAC, the following Natura 2000 sites are within proximity to the site:

Designated site & site code	Distance from referral site
Liskeenan Fen SAC (site code: 001683):	c.7km to the north of the site
Sharavogue Bog SAC (site code: 000585)	c. 8km to the north east of the site
Kilcarren-Firville Bog SAC (site code: 000647)	c.9.5km to the north west of the site
Arragh More (Derrybreen) Bog SAC (site code: 002207)	c. 10km to the north of the site

Ballyduff/Clonfinane Bog SAC (site code: 000641)	c.11.6km north of the site
Lough Derg, North East Shore SAC (site code:002241)	c.13km to the west of the site
Lough Derg (Shannon) SPA (site code: 004058)	c.13km to the west of the site

5.0 The Referral

5.1. Referrer's Case

5.1.1. Under Section 5(8)(a)(ii) of the Planning and Development Act 2000, as amended the National Parks and Wildlife Service (NPWS) on behalf of the Minister for the Department of Housing, Local Government and Heritage are seeking under Section 19 of the Wildlife (Amendment) Act 2000, whether the proposed development described in Section 2 of this report comprises development which is not exempted development. The following information was submitted with the referral:

- A copy of the application by Coillte for consent to the Department to carry out works to which the provisions of the Wildlife (Amendment) Act 2000 (Section 19) applies.
- A copy of the consent (NPWS Ref: NA0617) issued to Coillte from the Department, relating to the subject site, which permitted the clear felling of Sitka Spruce (3.9ha) and blocking of drains.
- A map indicating the area for which the determination is sought (3.9 ha).
- The subject site owned by Coillte is part of a larger landholding and includes a portion of Scohaboy Bog NHA.
- The site is within the larger area of the NHA which is funded by NPWS for restoration works to achieve favourable conservation status for the NHA as set out in the National Raised Bog SAC Management Plan 2017.

- NPWS have consented to the felling and replanting operations elsewhere within the NHA where it was determined it was appropriate for conservation purposes.
- The trees on the referral site were planted on peatland and NPWS would like to see the area returned as closely as possible to its previous bogland state after harvesting, which would mean not actively replanting the site with trees. The Department's aim is to return the site to its original pre-afforestation state and the removal of the existing conifer trees is critical to achieve this.
- Coillte have indicated to NPWS they are agreeable to the restoration of the site.
- The Dept. of Agriculture, Food & the Marine (DAFM) are concerned the felling of the coniferous plantation without replanting is deforestation which may be subject to planning permission and will not authorise the felling of the trees unless planning permission is granted or an exemption is secured.
- The referral site was planted with Sitka Spruce trees approximately 40 years ago. It is proposed to block drains which were excavated as part of the afforestation process to restore the conservation value of the site to active raised bog status.
- NPWS do not consider the development requires a Stage 2 Appropriate Assessment and the project falls below the threshold for an EIA as outlined in Schedule 5 Part 2 Class 1 (d)(iii) of the PDR.
- The act of removing the coniferous trees in conjunction with blocking the drains constructed for forestry would aim to return the land to its original use before the exempted forestry development was carried out.

5.2. Planning Authority Response

- 5.2.1. In Tipperary County Council's response dated 19/10/2023 to the referral, a copy of a Section 5, P.A Ref: S5/19/50 was submitted relating to an 800m section of bog bridge at Scohaboy Bog NHA. This section 5 was not determined.
- 5.2.2. A further response dated 25/10/2023 confirms there is no planning history associated with the referral site and clarified that the 2019 Section 5 declaration

request P.A Ref: S5/19/50 relates to a site 1.2km northeast of the referral site. A property registration map was attached which accompanied the P.A Ref: S5/19/50.

5.3. Owner/ occupier's response

5.3.1. Coillte submitted a response via email dated 15/12//2023 summarised as follows:

- Support the views expressed in the referral by NPWS.
- Refers to Coillte's strategic vision published in 2022 to restore 33,000 hectares of forest to bogland which requires felling licences without an obligation to replant.
- Refer to Schedule 5, Part 2 of the PDR Class 1(d)(iii) which requires an EIA for the deforestation for the purpose of **conversion to another type of land use**, where the area to be deforested would be greater than 10 hectares of natural woodlands **or 70 hectares of conifer forest**. (Coillte's emphasis in bold).
- The project type is not covered by the Forestry Regs, with the implication that a felling licence application seeking a waiver from the replanting obligations in accordance with Part 5 of the Felling and Restoration Policy will not be subject to an EIA screening or EIA by the Minister, but rather will require screening/EIA by a relevant P.A under Section 172 of the PDA.
- Consider it is counterproductive that planning permission should be required to achieve the national objective to restore blanket bog and raised bog habitats.

5.4. Further Responses

5.4.1. NPWS submitted a response dated 29/1/2024 to Coillte's response on the following summarised grounds:

- Clarified that their submission is under Section 5(8) (a)(ii) of PDA.
- Suggest the development is exempt under Section 4 (1)(i) of the PDA and Article 8F of the PDR and are seeking clarity from the Board in this regard.
- Welcome Coillte supports their view and their plans to restore peatlands.

- Acknowledge projects exceeding various thresholds would require planning permission but do not consider the current proposal falls within such a category, and the Board is not required to undertake an EIA screening for the project.
- Sole purpose of the project is to benefit the environment.
- Submit the Forestry Act 2014 Section 19 (1) (c) (iv) application process and determination by DAFM that felling is exempt from licence and any obligation to replant for environmental reasons; while not a licence, amounts to the equivalent and is an ‘**approval**’ (NPWS emphasis) for a forest management plan.
- Project is covered by Section 6 of the Forestry Act 2014 and covered by Forestry legislation. Refer to Regulation 19 (1) C (iv) “A tree (c) that is, **in the opinion of the Minister**, (NPWS emphasis) required to be removed-(iv) to mitigate a threat to a habitat or other important environmental resource, shall be an exempted tree”.
- To qualify for this exemption the opinion had to be and was in this case formally sought from the DAFM and received the oversight from the Department and subsequent “**approval**” that “**in the opinion of the Minister**” Regulation 19(1) C(iv) applied. (NPWS emphasis in bold)

5.4.2. Refer to Article 8F of the PDR which requires approval under Section 6 of the Forestry Act 2014.

6.0 Statutory Provisions

6.1. Planning and Development Act, 2000

6.1.1. Section 2 Interpretation

2 (1) of the 2000 Planning and Development Act includes the following:-

- ‘agriculture’ includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land,

meadow land, osier land, market gardens and nursery grounds, and “agricultural” shall be construed accordingly.

- ‘use’, in relation to land, does not include the use of the land by the carrying out of any works thereon.
- ‘works’ includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

6.1.2. **Section 3(1) – Development**

In this Act, except where the context otherwise requires, “development” means, the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

6.1.3. **Section 4 – Exempted Development**

Section 4(1) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act.

Section 4 (1)(i) development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species.

Section 4 (2) (a) of the Act provides that the Minister may, by regulations provide for any class of development to be exempted development for the purposes of this Act, where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of

the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).

(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of *subsection (1)* and any regulations under *subsection (2)*, development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

(4A) Notwithstanding *subsection (4)*, the Minister may make regulations prescribing development or any class of development that is—

(a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and

(b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.

6.1.4. **Section 5 Declaration and referral on development and exempted development**

5. - (8)(a) The Minister for Arts, Heritage and the Gaeltacht may apply to the Board under this subsection, without charge, for a determination as to whether an activity requiring the consent of that Minister—

(i) pursuant to a notification under Regulation 4(2) of the European Communities (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997) or pursuant to a direction under Regulation 28(1) or 29(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) or under regulations made under the European Communities Act 1972 for the purpose of giving further effect to the Birds Directive or the Habitats Directive by designating a site as a special area of conservation or as a special protection area, or

(ii) under section 19 of the Wildlife (Amendment) Act 2000,

comprises development which is not exempted development, and the Board shall make such determination as soon as may be and shall inform that Minister of its determination and the reasons for the determination.

(b) An application from the Minister for Arts, Heritage and the Gaeltacht under this subsection shall include the following:

(i) a copy of the application for consent;

- (ii) any other relevant information submitted with the application for consent;
- (iii) the reasons why that Minister considers that the activity may not be exempted development;
- (iv) the opinion of that Minister as to whether an appropriate assessment is required, and the reasons for that opinion;
- (v) the opinion of that Minister as to whether the development is likely to have significant effects on a European site or an area designated as a Natural Heritage Area under section 18 of the Wildlife (Amendment) Act 2000 and the reasons for that opinion, having regard to the purposes for which the site was designated.

6.2. Planning and Development Regulations, 2001

6.2.1. Article 6 (1) –Exempted Development

‘Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.’

6.2.2. Article 8(A)-(H) Works specified in a drainage scheme, the following of which are relevant to this referral:

8A. Initial afforestation shall be exempted development.

8F. Development (other than the replacement of broadleaf high forest by conifer species) that is licensed or approved under section 6 of the Forestry Act 2014 (No. 31 of 2014) and that consists of –(a) the thinning, felling or replanting of trees, forests or woodlands, or (b) works ancillary thereto, shall be exempted development.

8H. In areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), development that is licensed or approved under section 6 of the Forestry Act 2014 (No. 31 of 2014) and that consists of the replacement of broadleaf high forest by conifer species in areas less than 10 hectares shall be exempted development for the purposes of the Act.

6.2.3. **Article 9 (1) – Restrictions on Exemption**

Development to which article 6 relates shall not be exempted development for the purposes of the Act under certain circumstances and the restrictions and limitations are outlined in this Article of relevance:

(a) if the carrying out of such development would

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

6.2.4. **Article 11- Saver for certain development**

Development commenced prior to the coming into operation of this Part and which was exempted development for the purposes of the Act of 1963 or the 1994 Regulations, shall notwithstanding the repeal of that Act and the revocation of those Regulations, continue to be exempted development for the purposes of the Act.

6.3. Forestry Act 2014 (as amended)

6.3.1. This Act confers power on the Minister for Agriculture, Food and the Marine (DAFM) to make regulations for the effective management of the forestry sector, to make further provision for the giving effect to acts of the institutions of the European Union by regulation made by that Minister in respect of forestry and forestry-related activities.

6.3.2. **Section 2 provides the following interpretations of relevance to this referral:**

“afforestation” means the conversion of land to a forest;

“deforestation” means the conversion of a forest into land that is not a forest;

“exempted tree” means a tree exempted under section 19;

“remove”, in relation to a tree, includes uprooting the tree or applying a treatment to the tree to kill it;

“replant” means to deliberately restock with trees an area from which trees have been felled, removed or otherwise destroyed, or to restock such other land as may be agreed with the Minister, but does not include restocking by means of natural regeneration.

6.3.3. **Section 6** refers to specific functions of the Minister with regards to the granting of licences and where appropriate attaching conditions for felling, removing or felling of trees.

6.3.4. **Under Section 7** where a person wishes to fell or otherwise remove any trees they shall apply to the Minister for a licence to do so. In granting a licence the Minister may attach or vary conditions to any licence granted which includes inter alia requiring the planting of trees and a forest management plan.

6.3.5. **Section 19- provides for exempted and de-exempted trees of relevance to this referral:**

Section 19(1) provides for exempted trees to be felled including,

A tree -:

19.(1) (c)- that is, in the opinion of the Minister, required to be removed-

(i) to control or prevent the spread of fire or a pest or disease,

- (ii) to protect the integrity of the gene pool,
- (iii) for forest survey purposes, or
- (iv) to mitigate a threat to a habitat or other important environmental resource.

Section 19 (2) de-exempts trees to be felled including,

A tree -

19.2 (d) within –

- (i) a monument or place recorded under section 12 of the National Monuments (Amendment) Act 1994,
- (ii) a national monument or archaeological area entered in the Register of Historic Monuments under section 5 of the National Monuments (Amendment) Act 1987, or
- (iii) a national monument in the ownership or guardianship of the Minister for the Arts, Heritage and the Gaeltacht under the National Monuments Acts 1930-1994,

The referral site lies within a portion of the Site & Monuments Records Zone (SMRZone) of an archaeological monument. A SMRZone (also referred to as Zone of Notification/Archaeological Potential) is an indicative area which surrounds a monument and can vary in size.

(e) within a European Site or a natural heritage area within the meaning of Regulations 2(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I No.477 of 2011).

Shall not be an exempted tree, unless it is a tree to which-

- (i) Any of the *paragraphs (a) to (l), or paragraph (n) of subsection (1), or*
- (ii) *subparagraph (i), (ii), (iv) of subsection (1)(m), applies.*

19 (3) Nothing in this section shall be construed as removing any restriction on the felling or removal of trees under-

- (a) the Planning and Development Acts 2000 to 2013,

(b) the Wildlife Acts 1976 to 2000, and in particular section 40 of the Wildlife Act 1976.¹

- 6.3.6. **Section 22 of the Act** relates to the granting of licences by the Minister for afforestation and other activities. Under section 22 any person who undertakes afforestation must apply to the Minister for a licence and subsection (4) of this section permits the Minister at any time to attach or vary conditions to any licence granted.

6.4. **The Wildlife Act 2000, as amended**

- 6.4.1. Section 18- relates to the making of a natural heritage area order by the Minister.
- 6.4.2. Section 19 – relates to the restrictions on carrying out certain works to an area designated as a natural heritage area unless which are liable to destroy, alter, damage or interfere with the features of a natural heritage area unless the works are carried out with the consent of the Minister. The Minister can refuse to give consent for the carrying out of works.

6.5. **National Monuments Act 1930-2014**

- 6.5.1. Section 14 of the Act relates to the prohibition of injury to national monuments.
- 6.5.2. Section 26 relates to the restriction of excavation for archaeological purposes without or otherwise in accordance with a license issued by the Commissioners under this section.

7.0 **Assessment**

7.1. **Preliminary Issues**

- 7.1.1. It should be stated at the outset that the purpose of this referral is not to determine the acceptability or otherwise of the removal of 3.9 hectares of coniferous Sitka Spruce for the purposes of nature conservation and environmental protection at

¹ Section 40 of 1976, relates to the destruction of vegetation on uncultivated land between 15th April and ending on 31st August in any year.

Scohabog NHA, in respect of the proper planning and sustainable development of the area, but rather whether or not the referenced elements constitutes development, and if so, fall within the scope of exempted development.

- 7.1.2. In assessing the merits of the case, I have reviewed all documentation on file and inspected the site.
- 7.1.3. The main parties to this referral area as follows:
- National Parks & Wildlife Service (NPWS) (The Referrer)
 - Coillte (Landowner)
- 7.1.4. It is submitted by NPWS that the removal of the 3.9 hectares of coniferous forestry at Scohaboy Bog NHA is exempted development.
- 7.1.5. The site is located within a designated NHA, and under Section 19 of the Wildlife (Amendment) Act 2000, the felling of the trees on the site would require a felling licence or alternative consent (exemption under Section 29 of the 2014 Forestry Act) from the Forest Service Section of the Department of Agriculture, Food and the Marine (DAFM). Under Section 19 of the Wildlife Act an owner is required to give notice in writing to the Minister of their intention of the works they wish to carry out.
- 7.1.6. Coillte the occupiers of the site gave notice to the Minister to fell the trees. NPWS has no objection to the trees being felled subject to the land being returned to its previous bogland state after harvesting was completed. Coillte have indicated they are amenable to restoring the site to its natural habit, however the DAFM are concerned that the felling of coniferous plantation without replanting is deforestation and believe it requires planning permission. Consequently, the DAFM will not authorise the felling of the trees on the site unless planning permission is granted or an exemption is secured.

7.2. Is or is not development

- 7.2.1. The land the subject of this referral lies within Scohaboy Bog NHA. The removal of trees on the site and proposed drain blocking on the site would fall within the definition of works and would therefore be development as defined in Section 3 (1) of the PDA.

- 7.2.2. I note in the NPWS submission they propose two options for the land management of the site following the felling of the trees. Option one, the preferred NPWS option, is for minor works which include the blocking of drains previously excavated as part of the afforestation process and for the land not to be replanted with the aim to return the land back to its original use as a bog. Option two, includes allowing the site to regenerate naturally following the felling of the trees with native species rather than replanting. NPWS do not consider either option is a material change in the use of the land requiring planning permission.
- 7.2.3. In Section 4(1) of the Local Government (Planning and Development) Act, 1963, the use of any land for the purpose of agriculture or forestry (including afforestation) was exempt development. I therefore consider the planting of trees on the referral site some 40 years ago was exempt development. Article 11 of the PDR 2001, states development that commenced which was exempted development for the purposes of the 1963 Act shall continue to be exempted development for the purposes of the Act.
- 7.2.4. I would refer the Board to the attached historical maps which indicates the site was formerly a bogland site. I therefore consider the removal of the trees on the referral site and the proposed works to restore the natural wetland bog habitat on the site would not result in the land having materially changed, as it would revert to its former use as a bog.
- 7.2.5. In this regard, I am satisfied that the felling of trees on the land and the blocking of drains and either not replanting, or allowing the site to regenerate naturally, is 'works' and is development and would not result in a material change in the use of the lands, but rather the works would enable the land to revert to its original use as a wetland/bog habitat.

7.3. Is or is not exempted development

- 7.3.1. Having established that the 'works' undertaken amount to development, the issue to be considered is whether the development is exempted development or not.

Felling of trees and blocking of drains on the referral site

- 7.3.2. Section 4(1) (i) of the Planning and Development Act 2000 as amended states that development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement

of broadleaf high forest by conifer species is exempt development. This section of the Act does not specify a land area and does not specify that the felling of trees is dependent on the replanting of the trees on the land. I am therefore of the opinion the felling of the conifer trees on the land is exempt by virtue of Section 4(1)(i) of the Act.

7.3.3. I note in the NPWS submission they refer to the DAFM being concerned that the felling of the coniferous plantation without replanting is deforestation and could therefore be subject to planning permission. Article 8F of the PDR reiterates Section 4(1)(i) of the Act regarding exempt development concerning the felling of trees (other than the replacement of broadleaf high forest by conifer species) that is licensed or approved under Section 6 of the Forestry Act 2014 (No. 31 of 2014) and that consists of –

- (a) the thinning, felling or replanting of trees, forests or woodlands, or
- (b) works ancillary thereto, shall be exempted development.

7.3.4. Section 6 of the Forestry Act 2014 to which Article 8(F) of the PDR refers enables the Minister to grant licences and where appropriate attach conditions for the felling of trees and ancillary works. NPWS in their submission had no objection to the granting of a licence for the felling of trees at the site subject to the restoration of the lands to its original use (i.e a bog).

7.3.5. I note NPWS in their further response to this referral make reference to Section 19(1)(c)(iv) of the Forestry Act which refers to exempted trees which includes the removal of 'a tree' that is in the opinion of the Minister required to be removed for various reasons which includes (iv) 'to mitigate a threat to a habitat or other important environmental resource'. They further state that open consultation took place with the DAFM and that the application received the oversight of that Department and subsequent approval and that section 19 (1)(c)(iv) is applicable in this regard. I note their submission, however I consider section 6 rather than section 19 of the Forestry Act is pertinent to Article 8(F) of the Planning and Development Regulations when considering whether the works are exempted from requiring planning permission.

7.3.6. The development the subject of this referral consists of the felling of trees and ancillary works including the blocking of drains on the land which has been issued a licence by the Minister under Section 6 of the Forestry Act I consider the felling of

the trees on the site and the ancillary works for the conservation management of the bog habitat is development but would be exempt development by virtue of Section 4(1)(i) of the Planning and Development Act and Article 8(F) of the Planning and Development Regulations, as the works have been granted a licence (NPWS Ref: NA0617).

The recorded monument to the east of the referral site

- 7.3.7. Article 9(i) (vii) and (viiA) of the Planning & Development Regulations restricts exempted development where it would consist or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended.
- 7.3.8. I note there is a Recorded Monument (TN010-112- Enclosure) approximately 36m to the eastern boundary of the site. The eastern corner of the referral site would overlap with a portion of the Site & Monuments Records Zone (SMRZone) of this monument. A SMRZone (also referred to as Zone of Notification/Archaeological Potential) is an indicative area which surrounds a monument and can vary in size. This monument according to the National Monument Historic Environment Viewer 'was not indicated on the 1st or latest edition of the Ordnance Survey 6-inch map. On the 1st edition the area is open bog while on the 2nd (1903) edition small fields are depicted running up to the enclosure possible.' Following post inventory fieldwork, the enclosure was not identified in the area marked on the latest edition of the OS 6-inch map and concludes 'area of cut-away bog is an unlikely location for an enclosure'.²
- 7.3.9. This referral makes no reference to a consent being granted under section 14 or a licence granted under section 26 of the National Monuments Act with regards to this monument. I note the description of the enclosure on the NMS website, however without a licence or grant of consent under the National Monuments Act that portion

² The above description is derived from 'The Archaeological Inventory of County Tipperary. Vol. 1 - North Tipperary' compiled by Jean Farrelly and Caimin O'Brien (Dublin: Stationery Office, 2002. Date of upload/revision 22nd Sept 2008. The current CDP refers to the National Monuments Service website for recorded monuments for the County.

of the referral site which overlaps with the SMRZone is not exempt by virtue of Article 9(i)(vii) and (viiA) of the Planning and Development Regulations.

7.4. Restrictions on exempted development

- 7.4.1. Notwithstanding Section 4(1)(i) development in respect of which an environmental impact assessment or appropriate assessment is required cannot be exempted development under Section 4(4) of the Planning and Development Act 2000 (as amended).

8.0 Environmental Impact Assessment

- 8.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2, in Appendix 2 of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

9.0 Appropriate Assessment

- 9.1.1. I refer the Board to a technical report prepared by the Inspectorate's ecologist dated 20th March 2025 and attached to this report (Appendix 1). The proposed development has been considered in light of the requirements of S177U of the Planning and Development Act 2000 as amended.
- 9.1.2. The subject site is located in Scohaboy Bog Natural Heritage Area. The nearest European site is Scohaboy Bog SAC approximately 700m to the north of the site.
- 9.1.3. The proposed development comprises the felling of 3.9 hectares of Sitka Spruce forestry and drain blocking for the purposes of land management that would support the conservation management of the nearby SAC as it is part of the wider hydrologically connected peatland complex.
- 9.1.4. As the Minister for Agriculture, Food & the Marine (the "Minister") is the licensing authority under the Forestry Act 2014 for regulated forestry activities (i.e.,

afforestation, forest road works, tree felling, and the aerial fertilisation of forests) and issues financial approvals under various support schemes, s/he is the public authority responsible for implementing the requirement for Appropriate Assessment in respect of those projects or activities.

9.1.5. The action of not replanting the site with any kind of forestry is directly connected to and necessary for the conservation management of both the NHA and the connected SAC in view of their conservation objective to “restore” the favourable conservation condition of Annex I habitat, i.e *Degraded raised bogs still capable of natural regeneration* and therefore these works do not require consideration under Article 6(3) of the Habitats Directive.

9.1.6. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- There is no pathway or potential impacts having regard to the nature and scale of the works;
- The advice received from the Inspectorate’s Ecologist;
- The development is directly connected with and necessary to the management and conservation objectives of Scohaboy (Sopwell) Bog SAC and as such is excluded from the provisions of Article 6(3) of the Habitats Directive;
- The blocking of drains following deforestation and not replanting the subject site would restore the favorable conservation condition of Annexe I habitat ‘Degraded raised bogs still capable of natural regeneration’.

9.1.7. I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

9.1.8. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

10.1. I recommend that the Board should decide this referral in accordance with the following draft order.

A question has arisen as to whether the permanent removal of 3.9 hectares of coniferous Sitka Spruce forestry and blocking of drains for the purposes of nature conservation and environmental protection at Scohaboy Bog Natural Heritage Area (NHA) (site code: 00937), in Co.Tipperary is or is not development or is or is not exempted development:

AND National Parks & Wildlife referred this declaration on this question to An Bord Pleanála on the 15th day of September, 2023:

AND An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 8F, 8H & 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Part 2, Class 1(d) (iii) of Schedule 5 of the Planning and Development Act 2000 as amended,
- (d) Section 6 of the Forestry Act 2014 (No. 31 of 2014),
- (e) The documentation and submissions received from the parties to the referral,
- (f) The nature of land use and the pattern of development in the area,
- (g) The proposed works being directly connected to and necessary to the management of a Natura 2000 site and to restore the favourable conservation condition of an Annex I habitat.

AND An Bord Pleanála has concluded that:

- (a) The permanent removal of 3.9 hectares of coniferous forestry and blocking of drains for the purposes of nature conservation and environmental protection at Scohaboy Bog NHA constitutes works on the land and would come within the scope of section 3(1) of the Planning and Development Act 2000, as amended, and is therefore development.
- (b) The felling of trees and the blocking of drains would be exempt by virtue of Section 4 (1) (i) of the Planning and Development Act 2000, as amended, and Article 8F of the Planning and Development Regulations 2001 as amended.
- (c) The felling of trees on the land and not replanting would not result in a material change in the use of the land.
- (d) The development would align with the conservation objectives for Scohaboy (Sopwell) Bog Special Area of Conservation (SAC) (site code:002206) and would not impact on the integrity of the SAC or any other European sites.
- (e) The development would not significantly affect the integrity of Scohaboy Bog Natural Heritage Area (site code: 000937), or any other Natural Heritage Area.
- (f) By virtue of the nature, size and location of the development, it would not be likely to have a significant effect on the environment or to require an environmental impact assessment.
- (g) That portion of the referral site which overlaps with the Site & Monuments Record Zone to Recorded Monument TN010-122, at the eastern corner of the site is not exempt development by virtue of Article 9(i) (vii) and (viiA) of the Planning and Development Regulations 2001 (as amended), where a development would impact on an archaeological monument included within the Record of Monuments and Places in which a consent has not been granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended.

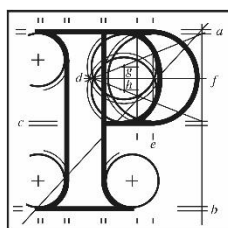
NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) of the 2000 Act, hereby decides that the felling of 3.9 hectares of coniferous forestry and ancillary works for the purposes of nature conservation and environmental protection at Scohaboy Bog Natural Heritage Area, Co.Tipperary is development and is NOT exempted development by virtue of Article 9(i) (vii) and (viiA) of the Planning and Development Regulations 2001 (as amended).

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Catherine Dillon
Planning Inspector

14th May 2025

Appendix 1 Technical Note: Ecology



An
Bord
Pleanála

Technical note: Ecology
ABP-318213-23

To: Catherine Dillon

From: Dr Maeve Flynn, MCIEEM Inspectorate Ecologist

Re: ABP Ref: **318213-23** Specialist advice regarding approach to screening for Appropriate Assessment for the removal of 3.9ha of coniferous Sitka Spruce forestry for the purpose of nature conservation and environmental protection at Scohaboy Bog NHA, County Tipperary.

Date: 20th March 2025

Referral case 318213-23 relates to the permanent removal of 3.9 ha of Sitka spruce forestry for the stated purpose of nature conservation and environmental protection at Scohaboy Bog Natural Heritage Area (NHA, site code 000937) in County Tipperary and whether the act of not replanting forestry /change of land use to an unforested state is development and if it is, whether or not it is exempted development or requires the consent of the local Authority.

Post felling of the forestry by Coillte (under Licence from the Department of Agriculture Food and the Marine), it is proposed that the site would not be replanted either with conifers or native trees but restored to previous pre-plantation bogland state to achieve a favourable conservation status for peatland habitat. This will be achieved by blocking drains which were excavated for the original afforestation purposes which will reduce water loss from the peatland and facilitate the restoration of natural wetland bog habitat.

The afforested site is within the larger area of the NHA which is of conservation significance for raised bog habitat. Scohaboy (Sopwell) Bog SAC [002206] is located 700m to the north, also within the wider NHA area (Figure 1 below). Lands in this area are part of an ongoing restoration project to bring Annex I peatland habitats to favourable conservation status in line with the aims of the National Raised Bog SAC management plan and the achievement of peatland rehabilitation targets set in the National Climate Action Plan. Within the SAC, afforested areas were clear felled as part of EU LIFE-funded project 'Demonstration Best Practice in Raised Bog Restoration' (LIFE09 NAT/IE/000222) and remains in active conservation management by Coillte. As part of their submission, the Department of Housing, Local Government and Heritage consider that proposed land management would also support the conservation management of the SAC as it is part of the wider hydrologically connected peatland complex.

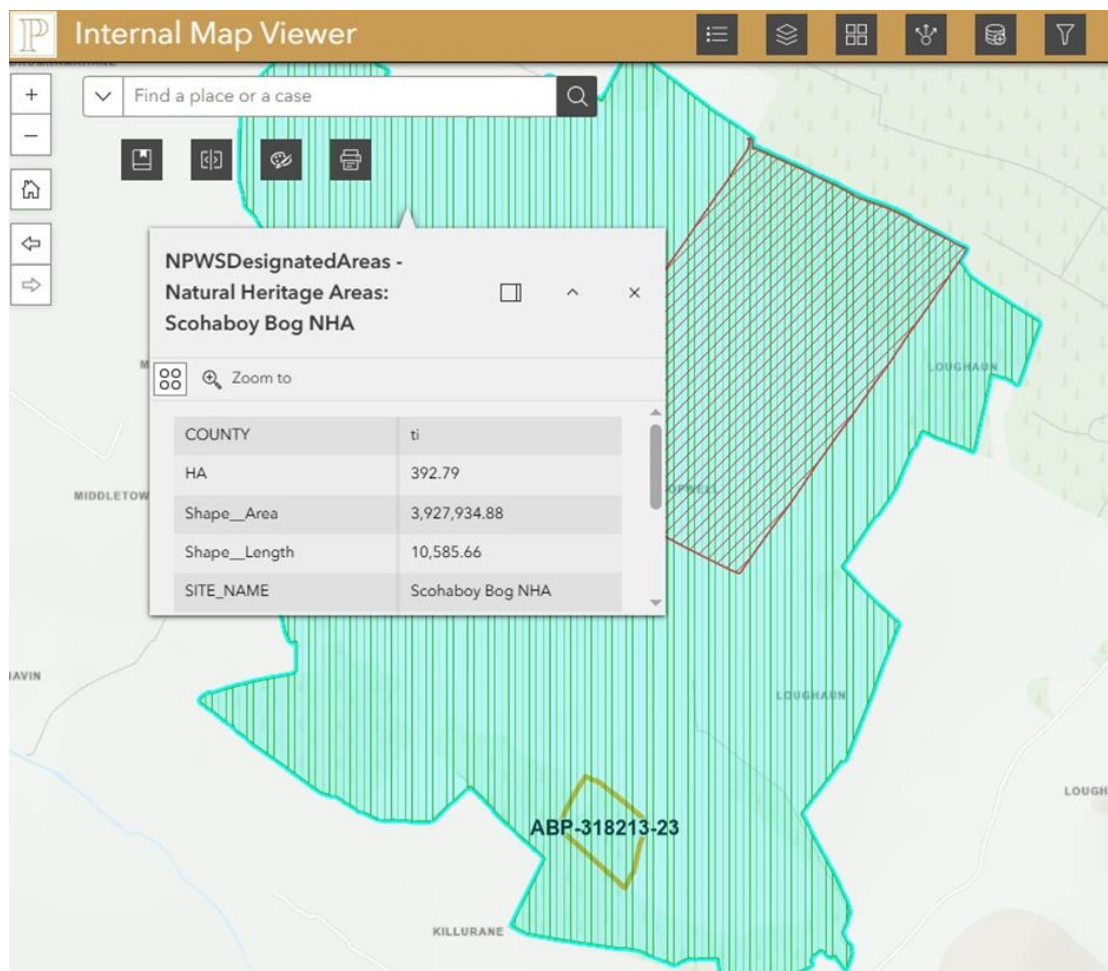


Figure 1. Case 318213 in context of Scohaboy Bog NHA and Scohaboy (Sopwell) Bog SAC (red hatching to North-east of site).

Scope of technical note

This technical note has been prepared to assist the Planning Inspector and the Board in the consideration of issues relevant to Screening for Appropriate Assessment (AA).

I have read the submission from the National Parks and Wildlife Service of the Department of Housing, Local Government and Heritage (DHLGH) dated 15th September 2023.

Screening the need for Appropriate Assessment.

The first step in Screening is to ascertain whether the project (or plan) is directly connected with or necessary to the management of a Natura 2000 site as such projects, either individually or as components of other plans and projects, should generally be **excluded** from the provisions of Article 6(3), but their non-conservation components may still require an assessment (EC, 2018³).

As identified by DHLGH in their submission, the action of **not replanting** the site with any kind of forestry is directly connected to and necessary to the conservation management of both the NHA and the hydrologically connected SAC in view of the conservation objective to “restore” the favourable conservation condition of Annex I habitat *Degraded raised bogs still capable of natural regeneration* and therefore this aspect does not require consideration under Article 6(3). It can be excluded from further consideration as part of stage 1 screening.

³ Managing Natura 2000 sites

The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC

Appendix 2 EIA Screening

Form 1 EIA Screening

An Bord Pleanála	ABP 318213-23		
Case Reference			
Proposed Development Summary	Whether the removal of 3.9 hectares of coniferous Sitka Spruce forestry for the purposes of nature conservation and environmental protection at Scohaboy Bog Natural Heritage Area (NHA) (site code: 00937), is development, and if it is development, whether or not it is exempted development or requires the consent of the Local Authority.		
Development Address	Scohaboy Bog Natural Heritage Area (NHA), Co.Tipperary		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	√	Part 2 Class 1 (c) (c) Development consisting of the carrying out of drainage and/or reclamation of wetlands where more than 2 hectares of wetlands would be affected. Part 2 Class 1 (d) (iii) Deforestation for the purpose of conversion to another type of land use, where the area to be deforested would be greater than 10 hectares of natural woodlands or 70 hectares of conifer forest.	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			

Yes			EIA Mandatory EIAR required
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√		Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	√		Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes			Screening Determination required

Inspector: _____ Date: _____

Form 2 EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP 318213-23
Proposed Development Summary	Whether the removal of 3.9 hectares of coniferous Sitka Spruce forestry for the purposes of nature conservation and environmental protection at Scohaboy Bog Natural Heritage Area (NHA) (site code: 00937), is development, and if it is development, whether or not it is exempted development.
Development Address	Scohaboy Bog Natural Heritage Area (NHA), Co.Tipperary.
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The referral site is located in a predominantly rural area and is currently planted in non-native trees and is located with Scohaboy Bog Natural Heritage Area (NHA) which was designated a NHA (site code 000937) on 1st February 2005 (S.I No.4 of 2005). The site would have already been planted at the time of the designation of the NHA, some 40 years ago.</p> <p>The development as described in the referral is for the permanent removal of 3.9 hectares of coniferous Sitka Spruce forestry for conservation purposes. The land is part of a larger landholding owned by Coillte within the NHA. The land immediately adjoining the site to the south equates to 5.7 hectares of coniferous forest.</p> <p>Both sites when combined would equate to approx. 10</p>

	<p>hectares of deforestation of conifer trees which falls significantly below 70 hectares of coniferous forest.</p> <p>The removal of non-native trees and the blocking of the drains on the site and not replanting the referral site would assist in restoring the natural habitat of the NHA and would support the conservation objectives of Scohaboy Bog NHA and SAC to the north of the referral site.</p> <p>The development does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The site and immediate area are located within the Scohaboy Bog NHA. Scohaboy Bog NHA is a site of considerable conservation significance comprising raised bog, a rare habitat in the E.U. and one that is becoming increasingly scarce and under threat in Ireland.</p> <p>The site does not impact any scenic routes or views identified within the CDP and is not located within an identified Primary or Secondary Amenity Area.</p> <p>The NPWS are carrying out an ongoing restoration project for the management of Scohaboy (Sopwell) Bog SAC (site code: 002206) designated on 21st December 2022, and the subject site is approximately 700m from the SAC. The overall conservation objective for the SAC is to maintain or restore the degraded raised bog. The restoration of the bog is</p>

	<p>dependent on water levels being near or above the surface of the bog. The blocking of the drains would support the restoration of hydrological conditions within the SAC to support active raised bog habitat.</p> <p>The site is located on lands of moderate ground water vulnerability and the adjoining lands to the north have low ground water vulnerability. Underlying bedrock has a locally important aquifer which is productive in local zones only. All site works would be carried out by Coillte in accordance with the Forest Service Code of Best Forest Practice.</p> <p>Having regard to the scale of the proposed works, in an established bog, the drainage works proposed and any measures proposed within a felling licence, would assist in restoring the natural habitat of the NHA and SAC for which the land has been designated.</p> <p><u>Species & Habitats</u></p> <p>This site supports a good diversity of raised bog microhabitats including some hummock/hollow complexes and cutover which add to the diversity and scientific value of the site.</p> <p>The site synopsis for the NHA has recorded Bird Cherry (a Red Data Book species) in the NHA. There is no record of this species or of bats recorded at the referral site by the NPWS.</p> <p><u>Archaeology</u></p> <p>There is a recorded Monument (enclosure) Ref: TN010-112, c. 36m to the eastern boundary of the site. The north eastern corner of the referral site would overlap with the SMR Zone for this monument. This</p>
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	<p>site according to the Historic Environment Viewer was not indicated on 1st or 2nd ed. OS 6-inch map. On the 1st ed. the area is open bog while on the 2nd (1903) ed. small fields are depicted running up to the enclosure possible. Site identified, post inventory fieldwork, by Eamon Cody and Paul Walsh (pers. comm.). 'Unable to locate any enclosure in area marked on latest ed. OS 6-inch map, area of cut-away bog is an unlikely location for an enclosure. The proposed development is therefore unlikely to impact on this monument.' ⁴ However, it is considered an archaeology assessment or licence is required.</p>
<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>The site is situated within an NHA on conifer planted lands which is abundant in the area. The lands are owned by Coillte and I note Coillte own other lands within the Scohaboy Bog NHA and SAC. However, the felling of the referral lands and the lands immediately adjoining to the south, cumulatively would equate to 9.5 hectares of non-native species.</p> <p>The proposed works would assist in restoring the land to its natural bog habitat for which the site is designated.</p> <p>The proposed project is considered small in scale. The review of the DAFM Forestry Licence Viewer identified a number of forestry projects within the vicinity. Any projects for the felling of trees on these lands would undergo environmental assessment, including AA screening and appropriate assessment (if necessary),</p>

⁴ The above description is derived from 'The Archaeological Inventory of County Tipperary. Vol. 1 - North Tipperary' compiled by Jean Farrelly and Caimin O'Brien (Dublin: Stationery Office, 2002. Date of upload/revision 22nd Sept 2008

	and carried out in accordance with best practice measures with the Forestry Regulations.	
Conclusion Given the relatively small scale of the development and its rural location, cumulative impacts are considered to be slight, neutral and temporary/short term, during the felling phase. All works carried out would be licensed by the Minister. The felling of the non-native trees on 3.9 hectares of land does not directly adjoin the SAC and would fall below the threshold of Part 2 Class 1 (c) & (d) of the Planning & Development Act 2000 as amended. The reclaiming of the lands back to bogland would assist in the storing of carbon and support the NHA and SAC conservation objectives and restore the bog habitat and result in an environmental benefit.		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required	No

Inspector: Catherine Dillon

Date: 14/05/2025

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3 Appropriate Assessment Screening

Appropriate Assessment Screening Determination
<p data-bbox="204 309 363 338"><u>Introduction</u></p> <p data-bbox="204 356 1385 490">A technical note (dated 20/3/25 & attached as part of this assessment) has been prepared by the Inspectorate's Ecologist, to assist in the consideration of issues relevant to screening for appropriate assessment concerning this development.</p> <p data-bbox="204 539 1362 674">I have considered the felling of 3.9 hectares of Sitka Spruce and the blocking of drains in light of the requirements of section 177U of the Planning and Development Act 2000, as amended.</p> <p data-bbox="204 692 360 721"><u>Subject site</u></p> <p data-bbox="204 739 1385 1030">The subject site lies within a rural area on land contained within Scohaboy Bog Natural Heritage Area (NHA) (site code: 000937) and has a site area of 3.9 hectares. The NHA was designated on 7th January 2005 as an NHA (S.I. No.4 of 2005). The site consists entirely of conifer high forest planted around 40 years ago. The NHA comprises relatively flat raised bog which slopes towards the forestry lands and has vegetation typical of raised bog type. Afforestation has occurred on the high bog to the north of the NHA.</p> <p data-bbox="204 1059 1353 1245">The site is approximately 700m from the southern boundary (closest point) to Scohaboy (Sopwell) Bog SAC (site code: 002206). The qualifying interest of the SAC is degraded raised bog capable of natural regeneration. The SAC was designated on 21st December 2022 (S.I No.725 of 2022).</p> <p data-bbox="204 1274 1353 1615">The subject site slopes in a westerly direction towards a watercourse known as Ballyfinboy River (EPA name) which lies approximately 1.km to the south of the referral site. Borriswood stream (EPA name) is approximately 1km (at its closest point) to the north east of the referral site and extends along the east and northern most boundary of Scohaboy (Sopwell) Bog SAC. Both watercourses flow in a westerly direction reaching Lough Derg North east Shore SAC (site code: 002241) and Lough Derg (Shannon) SPA (site code: 004058) approximately 15km to the west.</p> <p data-bbox="204 1644 536 1673"><u>Description of the project</u></p> <p data-bbox="204 1691 1353 1883">The project would involve the felling of Sitka Spruce trees and following the felling of the trees, the blocking of drains previously excavated as part of the afforestation process. The aim is to return the land to its original use before the trees were planted and restore the natural habitat to that of an active raised bog.</p> <p data-bbox="204 1899 1385 1984">I note from the documentation submitted a licence has been granted by the Department of Housing, Local Government & Heritage for the felling of trees on the subject site and lands</p>

immediately to the south (5.7 hectares). The area to the south is to be replanted with native species.

Submissions & Observations

This referral was submitted by NPWS who note the site is in close proximity but not adjoining Scohaboy Bog SAC and that the potential felling of the site would not adversely affect any other Natura 2000 site as there is no pathway to a sensitive receptor and therefore the project can be screened out for Stage 2 AA. NPWS also state not replanting of the site is directly connected with and necessary to the conservation management of both the NHA and SAC.

Potential Impact Mechanisms from the project

The subject site as it currently exists (coniferous forest) would have low ecological value. There is no record of rare or protected habitats and no invasive species on the site. However, the site has been designated an NHA for its raised bog habitat which is capable of being regenerated.

I note there is an ongoing Restoration Project funded by NPWS for both Scohaboy (Sopwell) Bog NHA and SAC to bring back the raised bog habitat to favourable conservation status, for the achievement of Active Raised Bog as set out in the National Raised Bog SAC Management Plan published by NPWS in 2017, and for the achievement of peatland rehabilitation targets set out in the national Climate Action Plan.

The closest watercourses to the site are Ballinfinboy and Borriswood stream, however there is no hydrological connection to these watercourses from the project site.

European Sites

The site is not located within or immediately adjacent to any designated European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). The closest European site is Scohaboy (Sopwell) Bog SAC (site code 002200) which is 700m from the northern boundary of the site.

Table 1: European Sites

European Site	Qualifying interest (summary)	Distance	Connections/pathways
Scohaboy (Sopwell) SAC (site code:001683) Conservation Objective: To restore the favourable conservation condition of Degraded raised bogs still capable of	Raised bog capable of regeneration	700m north of site	No direct upstream hydrological connection

natural regeneration			
Liskeenan Fen SAC (site code: 001683) Conservation Objective: To maintain the favourable conservation condition of Calcareous fens.:	Calcareous fens	c.7km north of site	None
Sharavogue Bog SAC (site code: 000585) Conservation Objective: To restore the favourable conservation condition of active & degraded raised bogs	Active & degraded raised bogs still capable of natural regeneration, Depressions on peat substrates	c. 8km ne of site	No- separate water body catchment to subject site
Kilcarren-Firville Bog SAC (site code: 000647) Conservation Objective: To restore the favourable conservation condition of active & degraded raised bogs.	As above	c.9.5km nw of site	None
Arragh More (Derrybreen) Bog SAC (site code: 002207) Conservation Objective: To restore the favourable conservation condition of Degraded raised bogs still capable of natural regeneration.	Degraded raised bogs still capable of natural regeneration	c.10km north of site	None
Ballyduff/Clonfinane Bog SAC (site code: 000641) Conservation Objective: To restore the favourable	Active raised bogs, Degraded raised bogs still capable of natural regeneration, Depressions on	c.11.6km	None- separate waterbody catchment to the site.

conservation condition of Active & Degraded raised bogs.	peat substrate, Bog Woodland		
Lough Derg, North East Shore SAC (site code:002241) Conservation Objective: To maintain or restore the favourable conservation condition of habits as listed in Qualifying Interests as listed.	Alluvial forests, Calcareous grasslands & fens, Alkaline fens, Limestone pavements, Yew woods	c.14km to the west of the site	None- the site is not connected hydrologically to the Ballyfinboy river which flows into this European site.
Lough Derg (Shannon) SPA (site code: 004058) Conservation Objective: To maintain or restore the favourable conservation condition of the bird species & habitats as listed in Qualifying Interests for this SPA.	Cormorant, Tufted Duck Goldeneye, Common Tern, Wetland & Waterbirds	c.14km to the west of the site	None- the site is not connected hydrologically to the Ballyfinboy river which flows into this European site.

Conclusion of Appropriate Assessment Screening

There is no potential link for the development on the hydrological regime supporting the bog habitat and there is no potential for diffuse groundwater or hydrologically linked surface water pollution due to the proposed works.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- There is no pathway or potential impacts having regard to the nature and scale of the works;
- The advice received from the Inspectorate's Ecologist;

- The development is directly connected with and necessary to the management and conservation objectives of Scohaboy (Sopwell) Bog SAC and as such is excluded from the provisions of Article 6(3) of the Habitats Directive;
- The blocking of drains following deforestation and not replanting the subject site would restore the favorable conservation condition of Annexe I habitat 'Degraded raised bogs still capable of natural regeneration'.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.