

## Sorcha Skelly

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**From:** Bord  
**Sent:** Friday 15 September 2023 15:26  
**To:** Appeals2  
**Subject:** FW: Section 5 Determination for Scohaboy Bog Natural Heritage Area (NHA) (site code 000937) Co. Tipperary  
**Attachments:** Scohaboy Bog SEC 5 application to ABP.pdf  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**From:** Aine Lynch (Housing) [REDACTED]  
**Sent:** Friday, September 15, 2023 2:57 PM  
**To:** Bord <bord@pleanala.ie>  
**Subject:** Section 5 Determination for Scohaboy Bog Natural Heritage Area (NHA) (site code 000937) Co. Tipperary

To whom it may concern,

As provided for under Section 5(8)(a)(ii) of the Planning and Development Act, the Minister for the Department of Housing, Local Government and Heritage wishes to apply to the Board for a determination as to 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 000937) Co. Tipperary, is development, and if it is development, whether or not it is exempted development or requires the consent of the planning authority.

Please find attached a document outlining the why the Minister is seeking this determination. I would be grateful upon receipt, if you could give a likely timeframe for a decision in relation to this application. Should you require any additional information in relation to this matter then please do not hesitate to contact me.

Yours faithfully,  
Áine Lynch

Dr. Áine Lynch

Bainisteoir Réigiúnach Thiobraid Árann Thuaidh/Luimnigh  
Regional Manager N.Tipperary/Limerick

An tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra  
National Parks and Wildlife Service

Oifigí an Rialtais, Bóthar Chonnláin, An tAonach, Co. Thiobraid Árann E45EK09  
Government Offices, St.Conlon's Rd., Nenagh, Co. Tipperary E45EK09

## **Request for determination of planning status of future land use at Scohaboy Natural Heritage Area Co. Tipperary.**

As provided for under Section 5(8)(a)(ii) of the Planning and Development Act, the Minister for the Department of Housing, Local Government and Heritage wishes to apply to the Board for a determination as to 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 000937) Co. Tipperary, is development, and if it is development, whether or not it is exempted development or requires the consent of the planning authority. The activity is subject to the consent of the Minister for Housing, Heritage and Local Government in accordance with Section 19 of the Wildlife (Amendment) Act 2000 and Statutory Instrument No. 4 of 2005, as it is located within a designated NHA and would also require a felling licence or alternative consent (exemption under Section 19 of the 2014 Forestry Act) from the Forest Service section of Department of Agriculture, Food and the Marine.

### **Background**

The site is within the larger area of Scohaboy Bog NHA and Special Area of Conservation (SAC) Restoration Works (See Figure 1 & 2), an ongoing restoration project funded by NPWS which is necessary to bring Habitats Directive (Council Directive 92/43/EEC) Annex I habitats within the NHA to favourable conservation status; for the achievement of Active Raised Bog [7110] national conservation targets as set out in the National Raised Bog SAC Management Plan published by NPWS in 2017 ([https://www.npws.ie/sites/default/files/files/FOR%20UPLOAD%20Plan\(WEB\\_English\)\\_05\\_02\\_18%20\(1\).pdf](https://www.npws.ie/sites/default/files/files/FOR%20UPLOAD%20Plan(WEB_English)_05_02_18%20(1).pdf)) and the achievement of peatland rehabilitation targets within the National Climate Action Plan 23 (<https://www.gov.ie/en/publication/7bd8c-climate-action-plan-2023/>). The 3.9ha on which determination is sought is outlined in Map 5 (see Figure 3) and is owned by Coillte as part of a larger landholding which includes a portion of the overall designated NHA area. NPWS has already consented to felling and replanting operations elsewhere within the NHA where it was determined it was appropriate for conservation purposes. The area on which determination is now sought was afforested with non-native coniferous trees (Sitka Spruce) approximately 40 years ago and it is now proposed to remove them. The trees were planted on peatland and this Department would like to see the area returned as closely as possible to its previous bogland state after harvesting is complete; this in our view, for this specific area, would mean not actively replanting the site with trees. Coillte have indicated they are amenable to the restoration of the original natural habitats at the site; however, DAFM are concerned that the felling of coniferous plantation without replanting it is deforestation and they believe it may be subject to planning permission. DAFM have stated they will not authorise the felling unless planning permission is granted or an exemption is secured from the relevant planning authority. This Department wishes to ask the Board to determine which is the case for the proposal.

Apart from not replanting the site it is proposed to block drains which were excavated as part of the original afforestation process. Drain blocking is intended to prevent water loss and facilitate the restoration of natural wetland bog habitat. Manual artificial planting of trees, even native trees, would cause drying, prevent the establishment of bog habitats and in our opinion impede the establishment of appropriate natural habitat. Even with drain blocking some areas of the site may remain relatively dry and it is likely there will be some natural regeneration of appropriate native woodland species in these drier areas but the Department's aim would be to rewet as much of the site as possible, returning it in so far as is possible to its original pre-afforestation state. The removal of the existing conifer trees is critical to achieving this. If trees are not removed as soon as is possible when conditions are dry removing them after rewetting would be very difficult. In addition to creating habitat of conservation value the rewetting of the site will dramatically reduce ongoing carbon emissions to the

atmosphere from the dried and afforested peatland. If active raised bog can be established the site will also capture and sequester atmospheric carbon.

#### **Appropriate Assessment**

Adjoining Scohaboy Bog NHA, but not directly adjoining the felling site, is Scohaboy Bog SAC. The land management this Department proposes for the NHA is designed and proposed solely for conservation management and would also support the conservation management of the hydrologically connected Natura Site. The proposal to not artificially replant the site with trees is aimed at the restoration of natural habitats particularly the priority Annex I habitat Active Raised[7110] Bog for which both the SAC and NHA have been designated. The potential felling would not adversely affect any other Natura Site, as there is no pathway to a sensitive receptor and we suggest in this regard, can be screened out for stage two Appropriate Assessment. Not replanting this site which is connected to Scohaboy Bog Natura Site, is directly connected with and necessary to the conservation management of both the NHA and nearby SAC and therefore in this Department's view also does not require Stage two Appropriate Assessment.

#### **Environmental Impact Assessment**

The land management proposes the felling of 3.9ha of non-native coniferous trees, we note the felling of trees, forests or woodlands is listed as an exempted development under Section 4(i) of the Planning and Development Act and in this case no broadleaf woodland will be affected. The proposal not to replant is very far below the mandatory threshold for EIA in Schedule 5 of the Planning and Development Regulations which is 70 ha for conifer deforestation (Part 2, 1, (d)(iii)).

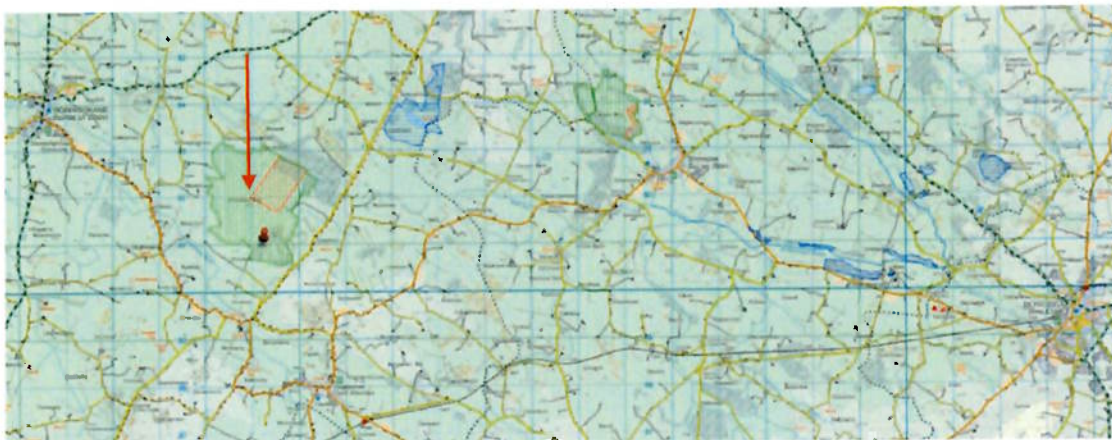
It appears to this Department that the proposed land use also would not fit the criteria for sub-threshold EIA as it is limited in extent and is required to remove existing environmental damage, both ecological and a carbon emission source. The proposal if it proceeds will benefit the environment not adversely impact it and has no other purpose.

#### **Possible considerations in the interpretation of legislation**

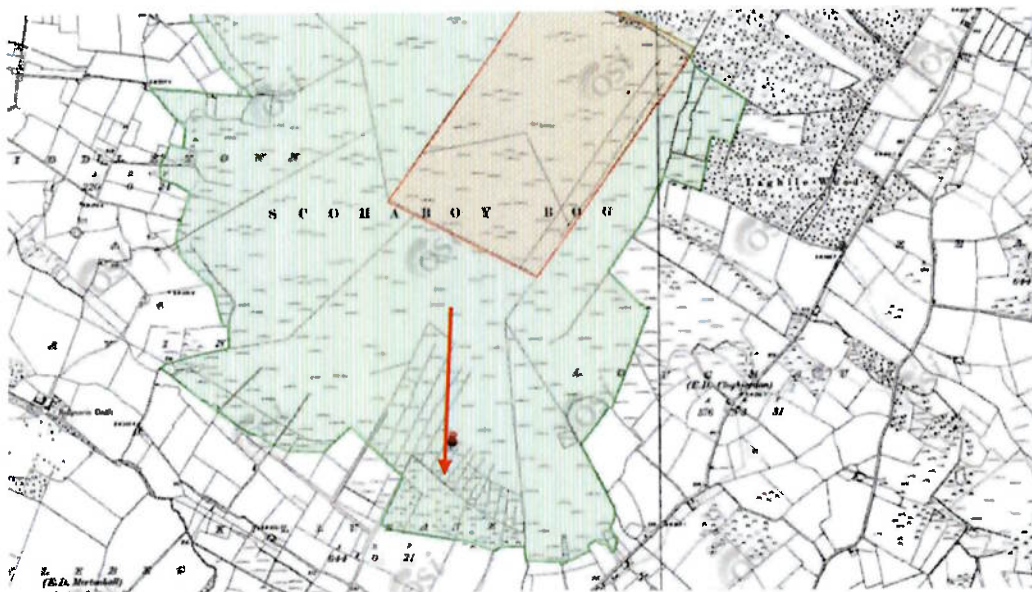
Prior to afforestation with non-native conifers and associated drainage, this site was a peatland not in agricultural use. Afforestation of the site did not require planning permission, similarly it appears to this Department that the felling of the trees is an exempted development. While minor works are proposed in order to block drains previously excavated as part of the exempted afforestation process, these works are proposed even if the site is to be re-afforested, even though they will adversely affect tree growth. The proposal not to re-afforest the site does not itself involve any works, it would be a decision not to carry out replanting works which may be relevant to the definition of "*development*". 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. In these circumstances we request that the Board determine whether such proposed land management would constitute a material change in the use of the land and be development, whether it would be exempted development or require consent under the Planning and Development Act.

If the Board determine that the proposed management outlined would constitute a material change of land use we would ask the Board to also determine whether the felling of the non-native conifers and allowing the site naturally regenerate with native tree species rather than be manually replanted would also constitute a material change of land use and also, if this is development, whether it would be exempted development. Natural regeneration would take a longer time for trees to establish but would lead to a more natural and structurally diverse woodland and is we suggest a recognised forestry method.

The Department would be grateful to the Board for determination of the above matters and is of course available to provide any additional information or clarifications required.

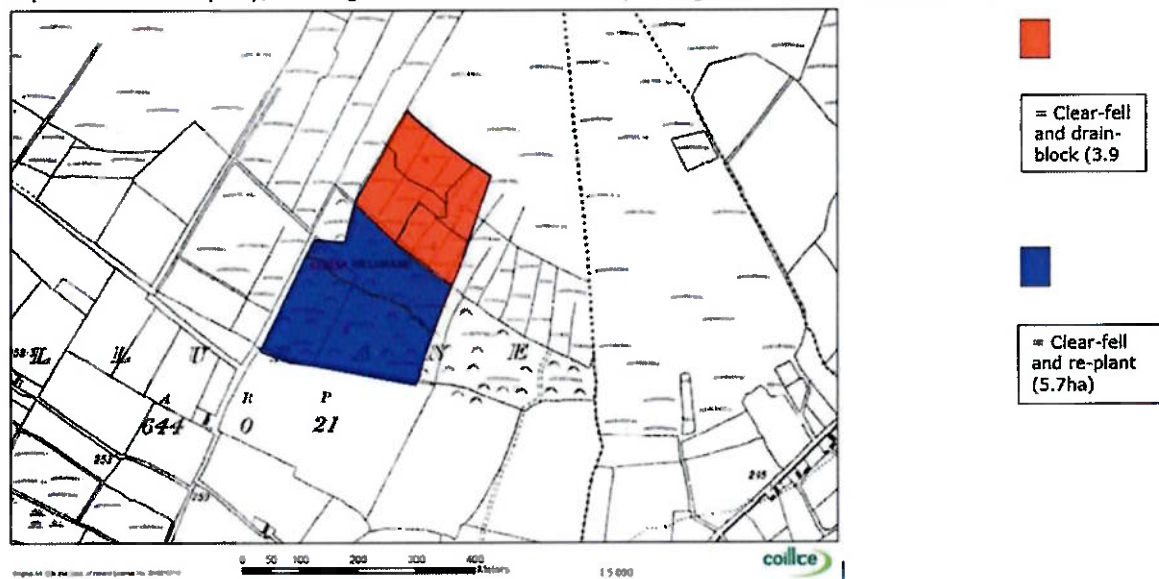


**Figure 1.** Site location. Town of Cloughjordan located to the south east of the site and town of Borrisokane located to the North West.



**Figure 2.** Exact location (red arrow) within Scohaboy Bog NHA (green hatched area). The red hatched area indicates the SAC.

Map 5. Killurane Property, showing areas to be returned to open bog habitat, and to native forest



**Figure 3.** The area upon which the determination is sought is coloured in red. The area in blue will be replanted with native woodland of mixed species.





An Roinn Tithíochta,  
Rialtais Áitiúil agus Oidhreachta  
Department of Housing,  
Local Government and Heritage

**APPLICATION FOR PERMISSION TO CARRY OUT WORKS IN A SITE TO WHICH THE  
PROVISIONS OF THE WILDLIFE (AMENDMENT) ACT, 2000 (Section 19) APPLY**

**Section 1 - For Completion by Applicant**

1. Applicant's Name: Coillte

2. Applicant's Address:

Dublin Road, Newtownmountkennedy, Co. Wicklow.

RE: Application for felling licence TY01 FL0059 & FL0060. NHA Scohaboy bog complex site code 000937  
Killurane

3. Nature of the operation/activity for which the permission is sought (give as full details as possible): ***\*\* Please ensure that you enclose a map indicating the location of the proposed works***

To clearfell 3.2 ha of Sitka Spruce planted in 1975 and Restock – Sub 43985k-1 (3.2ha) to be restocked with  
Scot's Pine 40% @ 2500 stems/ha and Birch 45% @ 1100 st/ha, with 15% open space planned.  
Windrow only. No fertiliser.

To clearfell 1.71ha ha of Sitka Spruce planted in 1975 and Restock – Subs 43985k-4&5 (1.71ha) to be  
restocked with Alder 50% @ 2500 stems per ha & Birch 50% @ 2500 stems per ha with 15% open  
space planned.  
Windrow only. No fertiliser

**Section 2 - For Completion by NPWS Regional Staff**

4. NHA Code Number: 000937

5. Describe the habitats that would be affected by the above proposal:

Active raised bog (7110)

Degraded raised bog still capable of natural regeneration (7120)

Cutover bog (PB4)

6. Recommendation (Allow/Disallow): Disallow

7. Reasons for Recommendation:

This application is for consent to fell a coniferous plantation within Scohaboy Bog NHA (Site code: 00937) and to re-plant with Scot's Pine, Birch and Alder. This site is within the footprint of Scohaboy Bog NHA-Phase 2 Restoration Works, an ongoing restoration project funded by NPWS which is necessary to the management of the Scohaboy (Sopwell) Bog SAC (Site code: 002206) as a European site. The restoration works, which are currently underway, are essential to support the restoration of appropriate hydrological conditions within the SAC to support existing areas of active raised bog habitat and restore degraded raised bog to active raised bog. Replanting within the footprint of these works will be detrimental to the project and incompatible with the site conservation objective to maintain or restore the favourable conservation condition of the Annex I habitat for which the SAC has been selected. I therefore suggest that consent is not given to replant the area highlighted in red and described as "Target Habitat: Degraded Raised bog" in Map 5 of the "Report\_Killurne\_Pre-felling\_Assessment\_final" document submitted by email by Kevin Power (Email- FW: Consent To Carry Out Works on Scohaboy Bog NHA, received Fri 07/05/2021 11:38).

Signed: *Kevin Power*

Position: Conservation Ranger

**Agree/Disagree**

Signed: \_\_\_\_\_

Position: \_\_\_\_\_

(Should be signed by RM or DRM)

**An Roinn Tithíochta,  
Rialtais Áitiúil agus Oidhreachta**  
Department of Housing,  
Local Government and Heritage



Coillte  
Dublin Road  
Newtownmountkennedy  
Co. Wicklow

**By Registered Post**

23<sup>rd</sup> February 2023

**NPWS Ref: NA0617**

*(Please quote the above reference in all relevant correspondence)*

**Decision on application for consent to clearfell Sitka Spruce and partial replanting on parcels of land in the townland of Killurane, Cloughjordan, Co. Tipperary within Scohaboy Natural Heritage Area (NHA) (Site Code: 000937) to which the Wildlife (Amendment) Act 2000 apply, in accordance with Section 19 of those Regulations.**

Dear Sir/Madam,

I refer to your application to the Minister for Housing, Local Government and Heritage to carry out the following at Killurane, Cloughjordan, Co. Tipperary within Scohaboy Bog Natural Heritage Area (NHA) (Site Code: 000937);

- A. Clearfell 3.2ha of Sitka Spruce and restock with Scotts Pine (40%), Birch (45%) and open space 15%
- B. Clearfell 1.71 hectares Sitka Spruce to be restocked with 50% Alder and 50% Birch with 15% Open Space planned.

This site is within the footprint of phase two rehabilitation works of Scohaboy Bog NHA. These works are being carried out on behalf of National Parks and Wildlife Service (NPWS) and are essential to restore the appropriate hydrological conditions within Scohaboy (Sopwell) Bog Special Area of Conservation (Site Code: 002206) to protect the existing active raised bog habitat and repair and restore areas of degraded raised bog.

The Department believes that replanting in some of this area could be detrimental to the project and incompatible with the site conservation objective to maintain and restore the favourable conservation condition of Active Raised Bog habitat.







It should be noted that Coillte had committed to not planting the area in its 2016 pre-felling assessment and the Department endorses this decision.

Therefore please be advised that the Minister has **granted consent** for the clearfelling of the existing Sitka Spruce plantation and partial replanting of the **site subject to the following conditions;**

1. The entire area of Sitka Spruce is clearfelled.
2. The area highlighted in red on the accompanying map (Map 5 of the Killurane Pre-felling assessment) is left unplanted.
3. When restocking, The Environmental Requirements for Afforestation (Department of Agriculture, Food and the Marine, 2016) must be followed.
4. Restocking of the remainder of the clearfell area can be carried out but must be done by the pit planting of broadleaves of native provenance – namely scots pine, birch and alder. (Or other native tree species suitable to wet conditions).
5. All refuelling of machines/chainsaws is to be carried out at least 50 m from any watercourse. Machinery must be clean and dry before entering the site.
6. The local NPWS Regional Manager is to be contacted within 48 hours of the work having been completed. Áine Lynch (087-9369372) [aine.lynch@npws.gov.ie](mailto:aine.lynch@npws.gov.ie).

**It is the responsibility of the applicant to ensure that any other necessary permits, licences or permissions from the appropriate authorities are in place before undertaking the works.**

#### **Right of Appeal**

You may, not later than 30 days after the day on which the decision is given by the Minister to attach conditions to the consent decision (**not later than 25<sup>th</sup> March 2023**), serve notice of appeal in writing on the Minister against that decision. A notice of appeal must be accompanied by a declaration made by you stating that you have or are entitled to an interest in or over the land the subject matter of the appeal.

Please note that the serving of a notice of appeal after the statutory timeframe referenced above cannot be accepted.

The serving of a notice of appeal must be submitted **in writing** to me by post or email. Verbal requests will not constitute registration of your appeal.



Please do not hesitate to contact your local NPWS Regional Manager Áine Lynch at 087-9369372 or by email at [aine.lynch@npws.gov.ie](mailto:aine.lynch@npws.gov.ie) if you have any further queries in relation to this matter.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Assumpta Carthy', is written over a light blue horizontal line.

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Assumpta Carthy  
Higher Executive Officer  
Site Protection Unit  
National Parks and Wildlife Service  
Wildlife Enforcement and Nature Conservation  
Department of Housing, Local Government and Heritage  
Newtown Road  
Wexford  
Y35 AP90

Tel: 053 9117310  
Email: [designated.bogs@npws.gov.ie](mailto:designated.bogs@npws.gov.ie)

Map 5. Killurane Property, showing areas to be returned to open bog habitat, and to native forest

