CHAPTER 11
Environmental Protection and Controls Consultation Process.

11.1 Overview

The Forest Service places great emphasis on a careful evaluation of the environmental implications of any afforestation proposal. Cases which give rise to particular environmental concerns should be dealt with on the basis of the consultation process as set out in this chapter. At development planning stage (Form 1 stage) all environmental considerations must be identified and plans drawn up with these in mind. Following approval of the application work must be carried out as planned to ensure environmental best practice. The Forest Service, has published the following set of guidelines:

- *Forestry and Water Quality*
- *Forestry and the Landscape*
- *Forestry and Archaeology*
- *Forestry and Biodiversity*
- *Forestry and Aerial Fertilisation*
- *Forest Harvesting and the Environment*
- *Forest Protection*
- *Forest Recreation*
- *Forestry and Environmental Impact Assessment (EIA)*

The *National Forest Standard* published by the Forest Service outlines criteria and indicators relating to the national implementation of Sustainable Forest Management. Also the *Code of Best Forest Practice - Ireland* (the Code) is available from the Forest Service. This describes for each forest operation the best operational practice and potential adverse impacts.

Failure to comply with the Code and the Guidelines current at the time of approval may result in grant and premiums being withheld.

Environmental protection and control in relation to the Forest Service grant and premium schemes are achieved by the following:

- Planning and design of each project in accordance with the Code and the Guidelines.
- Consultation process with prescribed bodies.
- Public consultation process
- Appeals procedure.
- Forest Service inspections

Statutory Instrument No. 538 of 2001 European Communities (Environmental Impact Assessment) (Amendment) Regulations, 2001 gives a legal basis to the consultation process that the Forest Service uses with prescribed bodies and the public in relation to specific environmentally sensitive sites. The table below outlines environmental considerations and the appropriate prescribed consultation body.

Table 18. Application form guidance (This section refers to Form 1, Page 3, heading "Environmental considerations")

Environmental Consideration		Afforestation Scheme		Referral for Other Schemes Note public consultation only takes place for the Afforestation scheme		
		Referral Body	Max. Referral period	Roads	Recon (*Windblow*)	WIS*
1	**Water Quality**					
1.1	Is the area designated potentially acid sensitive by the Department of Communications, Marine & Natural Resources ?	Subject to protocol which specifies consultation with the EPA in certain cases.		N/a	N/a	N/a
1.2	Is the area > 5.0 ha and sensitive for fisheries?	Regional Fisheries Board	4 weeks	4 weeks	4 weeks	N/a
1.3	Is the area non-sensitive for fisheries and > 40.0 ha?	Regional Fisheries Board	4 weeks	N/a	4 weeks	N/a
1.4	Is the area >10.0 ha and within a catchment area of a Local Authority designated water scheme?	Local Authority	4 weeks	N/a	4 weeks	N/a
2	**Designated Habitats**					
2.1	**Is the area within a pNHA, SAC, SPA or National Park?**	DoEHLG, An Taisce	2 months	2 months	2 months	N/a
2.2	Is the area within 3 km upstream of a pNHA, SAC, SPA or National Park?	DoEHLG	2 months	2 months	2 months	N/a
2.3	Does the area contain a current REPS plan habitat?	Dept of Agriculture and Food	4 weeks	N/a	N/a	N/a
3.	**Archaeology**					
3.1	**Does the area contain an archaeological site or feature with intensive public usage?**	DoEHLG, An Taisce	2 months	2 months	2 months	N/a
3.2	Does the area contain or adjoin a listed archaeological site or monument?	DoEHLG	2 months	2 months	2 months	N/a
4.	**Landscape**					
4.1	**Is the area within a prime scenic area in the County Development Plan or within an area listed in the Inventory of Outstanding Landscapes?**	Local Authority, Bord Fáilte, An Taisce	4 weeks	4 weeks (local Authority)	N/a	N/a
4.2	Are there any other high Amenity Landscape considerations?	Local Authority	4 weeks	N/a	N/a	N/a
5.	**Size for Notification to Local Authority**			N/a	N/a	N/a
5.1	Is the area greater than 25.0 ha?	Local Authority	4 weeks	N/a	N/a	N/a
6.	**Other Environmental Considerations**					
6.1	Specify	As necessary	4 weeks where necessary	4 weeks where necessary	N/a	N/a

Note: If present, all items listed may require the Forest Service to consult with prescribed bodies, while those in **bold type** may require the Forest Service to undertake public consultation.

* Woodland Improvement Scheme

11.2 Explanatory Notes for Page 3 of Form 1

11.2.1 Water quality

Q 1.1 Is the area designated potentially acid sensitive by the Department of Communications, Marine and Natural Resources ?

Where proposed planting sites fall into areas designated as acid sensitive by the Department of Communications, Marine and Natural Resources the water sampling and testing protocol should be consulted and where appropriate question 1.1 should be ticked in the yes column. 6" Ordnance Survey (scale 1:10,560) map numbers that have been designated in this way are listed in appendix 19.

Where a site is completely free draining with no aquatic zones and therefore can not provide water samples for testing it is necessary to establish whether there is an aquatic zone or zones on the same holding, (area covered by same folio) down slope from the proposed planting site. If such an aquatic zone exists on the same holding, then sampling and testing for Calcium carbonate ($CaCO_3$) must be carried out in that zone. If no aquatic zone exists on the holding down slope of the proposed planting site the protocol does not apply and normal approval procedures apply for that site subject to inspection and confirmation of such by the Forest Service Inspector.

Q 1.2 Is the area > 5 ha and sensitive for fisheries ?

Where all three bullet points below are satisfied Q1.2 should be ticked in the yes column

- one or more aquatic zone(s), lake, river, or stream shown on a 6" Ordnance Survey Map, scale 1;10560, traverses or is adjacent to the proposed planting site
- the proposed planting site is in an area designated as sensitive for fisheries by the Regional Fisheries Boards
- the proposed planting site is greater than 5 hectares.

Approved foresters/applicants may arrange for a notice commenting on the proposed afforestation and signed by an authorised officer of the Regional Fisheries Board to accompany the application in these instances. Otherwise the Forest Service will carry out all necessary consultations with the Fisheries Boards. Areas which may be sensitive to fisheries are listed in Appendix 22.

Q 1.3 Is the area non-sensitive for fisheries and > 40.0 ha?

Where all three bullet points below are satisfied Q1.3 should be ticked in the yes column

- one or more aquatic zone(s), lake, river, or stream shown on a 6" Ordnance Survey Map, traverses or is adjacent to the proposed planting site
- the proposed planting site does not fall into an area designated as sensitive to

fisheries by the Regional fisheries boards

- the proposed planting site is greater than 40 hectares.

Approved Foresters/Applicants may arrange for a notice, signed by an authorised officer of the Regional Fisheries Board, commenting on the proposed afforestation to accompany the application in these instances. Otherwise the Forest Service will carry out all necessary consultations.

Q 1.4 Is the area > 10.0 ha and within a catchment area of a Local Authority designated water scheme?

Where the proposed planting site falls within a catchment area of a water scheme designated as sensitive to forestry in the County Development Plan and is greater than 10 ha. question 1.4 should be ticked in the yes column.

Note: It is necessary to adhere to the Forestry and Water Quality Guidelines on all sites including those that do not have an aquatic zone.

11.2.2 Designated habitats

Q 2.1 Is the area within a NHA, SAC, SPA or National Park

Where the proposed planting site falls within or adjoins a proposed Natural Heritage Area (pNHA), NHA, candidate Special Area of Conservation (cSAC), SAC, Special Protection Area (SPA), National Park or Nature Reserve question 2.1 should be ticked in the yes column. A note should be made of the number or name associated with the pNHA, cSAC, SPA, National Park or Nature Reserve.

The European Communities (Natural Habitats) Regulations, 1997, (S.I. No. 94/1997) give effect to the Habitats Directive and provide the statutory framework for the formal designation of the Habitat Directive. Areas covered under the Habitats Directive are currently referred to as candidate Special Areas of Conservation (cSACs). Detailed maps are available on request from DoEHLG.

All areas designated as a cSAC, SAC, pNHA, NHA, pSPA, SPA, National Park or Nature Reserve must be referred to DoEHLG for their observations.

Q 2.2 Is the area within 3 km upstream of a NHA, SAC, SPA or National park?

Where the proposed planting site is adjacent to or falls within 3 km upstream of an pNHA, NHA, cSAC, SAC, pSPA, SPA, National Park, or Nature Reserve question. 2.2 should be ticked in the yes column with a brief note to that effect and the Forest Service will forward these applications to DoEHLG.

Please note that it is an offence to contravene the European Communities (Natural Habitats) Regulations, 1997, (S.I.No.94/1997) and a penalty of €1905 or six months imprisonment is provided for. (Note also Forest Service Penalty System chapter 12).

Q 2.3 Does the area contain a current REPS habitat ?

Where the proposed planting site contains a current REPS habitat question 2.1 should be ticked in the yes column. Please refer to Chapter 13 for further information.

11.2.3 Archaeology

Q 3.1 Does the area contain an archaeological site or feature with intensive public usage?

Where the proposed planting site contains an archaeological site or feature with intensive public usage question 3.1 should be ticked in the yes column and the site number and Record of Monument and Places (RMP) map photocopy should be included with the Form 1. For a listing of scheduled venues to view records of monuments and places, see Appendix 23.

Q 3.2 Does the area contain or adjoin a listed archaeological site or monument?

Where the proposed planting site contains or adjoins a listed archaeological site or monument or an unlisted but suspected archaeological site question 3.2 should be ticked in the yes column and the site number and SMR map photocopy should be included with the Form 1. Damage to archaeological sites is irreversible. The constraints relating to such sites are described in the Forestry and Archaeological Guidelines published by the Forest Service. For a listing of scheduled venues to view records of monuments and places, see Appendix 23.
Forestry and Archaeological Guidelines describe the actions and reporting that must follow any archaeological find in the course of forestry work as well as the exclusion zones to be observed around non archaeological sites.

11.2.4 Landscape

Q 4.1 Is the area within a prime scenic area in the County Development Plan or within an area listed in the Inventory of Outstanding Landscapes?

Where the proposed planting site falls within an area described in the County Development Plan as an area of Outstanding Natural Beauty or is in the highest scenic quality category in the County Development plan or within an area listed in the Inventory of Outstanding Landscapes question 4.1 should be ticked in the yes column.

Q 4.2 Are there any other High Amenity Landscape considerations?

Where the proposed planting site falls within an area of any other high amenity landscape designation question 4.2 should be ticked in the yes column and a brief note included stating the consideration.

Areas adjacent to the sea, lakes, dwellings or roads are particularly sensitive and special attention should be paid to the Forestry and the Landscape Guidelines in these areas.

11.2.5 Size for notification to Local Authority

Q 5.1 Is the area greater than 25 ha

If the gross area of the proposed planting site is greater than 25 ha Question 4.2 should be ticked in the yes column.

11.2.6 Other environmental considerations

Q 6.1 Specify

Where there are any other known local historical interests e.g. old sport fields, water, habitats, archaeology or landscape considerations or any other environmental considerations not covered above Question 6.1 should be ticked in the yes column. The details of the consideration should be specified.

11.3 Public Consultation Process

Where the proposed planting site falls within any one of the categories 2.1, 3.1, or 4.1 on Page 3 of Form 1 the application will be subject to a public consultation process. In these cases the Forest Service will in the first instance publish details of the contract number, D.E.D., townland and area in a newspaper circulated in the district where the land is situated. The non-personal information on the application form and the map of the site on which the afforestation is proposed can be made available for inspection free of charge in the Forest Service office in Johnstown Castle Estate in Wexford.

Members of the public may make a submission or observation in relation to the application within three weeks of the date of publication of the notice. The Forest Service when considering the application will, inter alia, have regard to this submission or observation. Where the Forest Service disagrees with the objection and recommends the site for planting, the objector is made aware of this outcome and the application is held for a further 21 days during which time the objector can appeal the decision.

11.4 Appeals Process

This procedure involves an Appeals Committee which considers appeals to Forest Service decisions on afforestation applications.

The Appeals Committee was set up on an administrative basis to coincide with the introduction of the enhanced consultation procedure referred to earlier. Provision for a statutory-based Appeals Board is being incorporated into the Forestry (Amendment) Bill.

Table 19. Other consultation / referral procedures

Areas	Consultation type	Consultation Period
Areas of 50ha or more	EIS requirement as per Statutory Instrument No. 538 of 2001, European Communities (Environmental Impact assessment) (Amendment) Regulations, 2001 .	(Through the EIA process)
Areas of all sizes within 60m of a dwelling or associated building	Applicant must obtain written consent of owner-occupier of the dwelling.	N/A
Areas over 2.5 ha.	Notices are placed in appropriate provincial paper specifying the County, D.E.D., Townland and proposed planting area (ha.) for all proposals greater than 2.5 ha.	1 month from date advertisement appears in the paper
Airport	Applications are referred to the appropriate aviation authority.	normally 1 month

11.5 Environmental Impact Assessment (EIA)

An Environmental Impact Statement (EIS) is a statement of the effects if any, which the proposed development, if carried out, would have on the environment. An Environmental Impact Assessment (EIA) is the process of examining the environmental effects of development, including:- aspects at design stage, preparation, evaluation by a competent authority decision to approve or not and the public response to that decision.

The forest consent system (or afforestation approval system) operated by the Forest Service provides for an Environmental Impact Assessment to be carried out in certain cases. Directive 85/337/EEC on Environmental Impact Assessment in conjunction with S.I. No.538 of 2001, the transposing instrument in the Irish context, has designated the Minister [The Forest Service] as the Competent Authority [as defined in the Directive] in such cases. This regulation coincides with initial afforestation being taken out of the planning control system under the Local Government (Planning and Development) (Amendment) Regulations, 2001 (S.I. No. 539 of 2001). This legislation (SI No.538 of 2001) provides for mandatory EIAs to be carried out on areas over 50 hectares, and on areas under the 50 hectares threshold where a proposed development is perceived as having a significant environmental impact. However Article 17 Chapter 3 of S.I. No 538 of 2001 gives the Minister certain limited discretionary powers in relation to exemptions.

For more information on the above see Forestry and Environmental Impact Assessment(EIA) Guidelines (Forest Service, 2003)