

5.7 Loggan Bridge

Loggan Bridge, Loggan Upper, E.D. Wingfield, County Wexford

This section of the report was written by Mrs. Debra E. James. Mrs. James owns land adjacent to the woodland in question, and as the report specifies, there was no consultation with her nor the local community about the sale of the state owned forest for development. Mrs. James has expressed that had she been given the opportunity to purchase the site from Coillte for the purposes of conservation, she would have taken that opportunity.



5.7.1 Introduction

The author, Mrs. James, has an appurtenant right on the deeds of her property to a State-owned afforested parcel of land (wetland densely afforested with mainly willow but some ash, birch, and conifers) that is now controlled by Coillte Teoranta [1, 2].

The site, in the townlands of Cummerduff and Loggan Upper, Electoral District of Wingfield, Gorey, County Wexford, is located along the south bank of the Coolboy River, and is bounded on the east side by the public road at Loggan Bridge.

Approximately two years ago, part of that woodland - about ten acres - was sold by Coillte to property developers, who have been seen working on the site since then.

No planning applications for change of use of the land, no notices of intention to sell, or 'for sale' signs have ever been erected in the vicinity of the woodland. The sale of the portion of the woodland was not advertised; there was no public auction; nor was there any other indication that the land was for sale. There was no public consultation, or if there was it was not publicly advertised and Mrs. James was not personally informed thereof.

The developers have now levelled the trees that grew on the acreage they purchased. Recent (September 2005) photographs of the site show an area of bare soil and a large pile of stumps and logs (many tonnes) - the remains of the hundreds of mature trees that grew there.

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The trees on this site of approximately ten acres were uprooted, and deep ditches dug which were filled with construction rubble for drainage. It has been personally witnessed by the author of this report (Mrs. James) this work taking place on the site. According to the Forest Service, there was no felling licence of any type applied for in respect of the site.



Motivated by an article on illegal felling in The Irish Times [3], Mrs. James contacted the Felling Section of the Forest Service in County Wexford on September 1, 2005, and again on September 13 2005, and was informed by them that there was on their database no record of a felling licence having been issued in respect of the woodland in question. [4]

According to Mr Sean Crowe (Felling Section/Wexford Forest Service) who told Mrs. James this information during a telephone conversation that took place on September 22, 2005, a member of the Tullow Gardaí, Garda Aidan McDermot, visited the site at the request of the Forest Service, and had reported to Mr Crowe that they did not find any evidence of any felling having taken place there.

On September 23, Mrs. James took photographs of the site and sent copies of them in a registered letter dated September 27th to Mr Crowe [5]. Mrs. James also wrote to the Forest Service outlining the people she had witnessed illegally felling trees [6]. The Forest Service, in response, informed Mrs. James by letter [7] that they will not tell her in writing whether or not the Inspector within whose area the forest lies (Mr Fergal Smore) has inspected the site, or what the Gardaí reported to them after their inspection of the site, because they 'may decide to initiate legal proceedings in relation to this case'.

According to the Forestry Act 1946 it is a criminal offence under Irish law to fell a mature tree without a licence [8]. There should be no doubt about whether legal

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proceedings will be instigated. The Forest Service must make its decision as to whether to take legal action within one year of receiving a report of illegal felling. If no action is taken by the Forest Service within that year, the person who has felled the trees has effectively escaped prosecution for a criminal offence.



5.7.2 Aspects of European legislation relevant to this case:

Preservation of native forests and wildlife habitats

The now-destroyed wood formed part of a forest habitat that contained a population of deer, which have been seen by Mrs. James this year. The Conservation Officer with responsibility for the area (Lorcan Scott) informed Mrs. James that because the forest was not a 'NHA or SAC' it was not protected in any way, deer or no deer.

Felling of trees in Ireland is controlled under the Forestry Act, 1946. Unlicensed felling is a prosecutable offence. Limited Felling Licences usually have a replanting condition attached and all areas felled under General Felling Licences must be replanted. This replanting condition is probably why no felling licence was applied for by the developers.

'Vulnerable area'

The area of woodland that has been levelled has a length of the Coolboy River as its northern boundary. River banks are included in the Wexford County Development Plan list of 'Areas Designated as Vulnerable' [9].

Anti-competitive

The failure to publicise the fact that the woodland was for sale did not allow for fair competition, as prescribed by EU law.

There was a failure on the part of Coillte to acknowledge the interest and rights of a Mrs. James, a local landowner, who has legal rights specifically enumerated on their

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deeds to the use and enjoyment of a State-owned forest (complete with a specified right of way to the access thereof) to consultation in respect of Coillte's intention to sell part of it, and an offer of the option to buy the land before those with no rights to access and use thereof might purchase it.

Sustainable development

The wood was levelled for the sole purpose of enabling the developers who now own it (having already bought up agricultural land and secured planning permission for several one-off houses along the road that abuts the woodland) to build more one-off houses, which in County Wexford do not appear to be subject to the recently-issued Ministerial guidelines, produced by Minister for the Environment Mr. Dick Roche, that recommended planning conditions should require that one-off houses in rural areas were permitted when necessary to satisfy the grantee's local need.

Those limited conditions that are attached to planning approval in Wexford are there in writing only - they are not enforced. For example, there is no mechanism or inspectorate in place for monitoring compliance with any year-round residency obligations or requirements to occupy the house for a certain number of years before it is sold that may have been attached as conditions to a planning consent. Councillors admitted this was the case at a meeting attended by Mrs. James in the Wexford Council Chambers on February 9, 2004 when several radical changes [10] were made to the County Wexford Development Plan, changes that have resulted in a free-for all in the granting of planning consents for one-off houses in the Wexford countryside.

Inconsistency in planning regulations

The site of the former willow-wood is located only a few metres from the County Wicklow boundary. The planning policies in place on the County Wicklow side of the border do not permit one-off houses be built in unserviced areas, unless there is a demonstrable local need, but there are few refusals of planning applications just across the county line in Wexford. This inconsistency in planning policies has resulted in a very large number of one-off houses serviced by septic tanks being built in rural North Wexford along the boundary in the last year, while there are very few if any on the County Wicklow side.

The variations agreed to the Wexford County Development Plan on February 9, 2004 put in place planning policies that are resulting in what is effectively 'asset-stripping' (of scenic areas in particular) by the widespread construction of suburban-type houses on prime agricultural land in unserviced rural areas, and breaches of EU legislation, for example, permitting the proliferation of septic tanks servicing houses in areas of high water-table and in close proximity to rivers and streams, violates the Groundwater Directive.

5.7.3 Archaeology

In "Wexford in Prehistory, 5000BC to 300AD" a site is described in Loggan Upper as containing an 'urn burial': "*The mound at Loggan Upper was a focus for successive burial over a long period of time. It cannot be determined whether or not the actual*

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mound incorporated burials but Westropp noted the occurrence of three urns enclosed in cists, near the south-east section of the rampart; about 274m to the west there was a group of cists near a hollow with human bones and, not far away there were two more urns with ashes and smaller vessels inside...

...An interesting pattern emerges in the north of the county where the cooking sites cluster on the lower slopes of the hills, while the cist burials are on the higher ground. The as yet to be discovered habitation sites associated with this intensive activity could well be located in the intermediate area. Future field work and excavation should be focused in this region.” [11]

Coillte stated in its Forestry Management Plan for the Border Hills:

“4.7.1 Archaeology: There are many Archaeological monuments present in the Border Hills FMU. These vary from enclosures and ring forts dating from the early Christian period (500-1100AD), burial tombs, cairns, and hill forts from the Iron Age period (300-500 BC). Registered monuments are recorded as part of Coillte GIS database and company policy ensures that statutory requirements Forest Service guidelines are adhered to. In addition the company’s archaeologist has formulated guidelines for the protection of monuments in the field. There are a number of these sites in the FMU. There are 36 which are currently being protected by Coillte. These are mainly enclosures, some earth works and one cyst grave and 2 grave yards.” [12]

It cannot be considered that selling state-owned woodland in an extremely archaeologically-sensitive area privately (without consultation or public advertisement of the sale) to developers for its inevitable destruction constitutes adequate 'protection of monuments in the field'. At the time of publication of this report, it was not determined whether the urn burial site has been damaged by the developments.

5.7.4 References

1. Confirmed by Anthony H. Ensor (Solicitor), Ensor O’Connor Solicitors, 4 Court Street, Enniscorthy, County Wexford, Ireland.
2. Land Registry – Register of Ownership of Freehold Land.
3. *Minister warns of increase in number of trees felled illegally* (The Irish Times, August 31, 2005).
4. Can be confirmed by the Felling Section of the Forest Service. Wexford area offices: Department of Agriculture and Food, Johnstown Castle, Wexford Telephone: +353 (0)53 60200.
5. Letter from Mrs. James to the Forest Service, 27th September 2005.
6. Letter from Mrs. James to the Forest Service, 8th October 2005.
7. Letter from Forest Service to Mrs. James, 11th October 2005.
8. Forestry Act 1946, <http://www.irishstatutebook.ie/ZZA13Y1946.html>.
9. Wexford County Development Plan.
10. Notes from a meeting of Wexford County Council, 9th February 2004.
11. “Wexford in Prehistory, 5000BC to 300AD”, Geraldine Stout (Wexford, History and Society, 1987).
12. Coillte Forestry Management Plan for the Wexford/Wicklow Border Hills area