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21<sup>st</sup> November 2024

My Reference:           AIF Case Ref: 010/13/24-25

Dear [REDACTED],

**Advisory letter: Alleged Illegal Felling at land lying to the northwest of Grindley Lane, Stoke on Trent (TITLE NUMBER: SF98561)**

I am informed that during the month of October 2024 you felled, or authorised the felling of, trees on the above property. This work was undertaken without a licence to fell trees.

Having considered all the circumstances, it has been decided that no further action should be taken by the Forestry Commission on this occasion, as it is likely that no licence was required, due to one or more of the exemptions to the need for a licence likely having applied. I am simply writing, therefore, to advise you of the consequences of any tree felling that is considered a breach of the Forestry Act 1967 in the future.

It is an offence under Section 17 of the Act to fell more than five cubic metres<sup>1</sup> of timber in a calendar quarter without a licence authorising the tree felling, unless an exemption to the need for a licence applies. These exemptions are set out in the Forestry Commission booklet 'Tree Felling – Getting Permission', available on GOV.UK at:  
<https://www.gov.uk/government/publications/tree-felling-getting-permission>

The Forestry Commission takes a serious view of any offence committed under the felling licensing regime. Where there has been a breach of the regime, the Forestry Act provides the Forestry Commission with powers to initiate a criminal investigation with the potential for prosecution, and/or to serve a Restocking Notice requiring the land to be restocked with trees.

Anyone successfully prosecuted for illegal tree felling under section 17 of the Act after 1<sup>st</sup> January 2023 is liable to an unlimited fine set at the discretion of the court. Regardless of whether a prosecution is initiated, they may also be served by the Forestry Commission with a Restocking Notice under section 17A of the Act, if they have sufficient interest in the land.

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<sup>1</sup> Approximately the size of a small family car

A Restocking Notice requires the individual(s) served to restock the felled land and maintain the trees for 10 years at their own expense. Non-compliance with a Restocking Notice may lead to the serving of an Enforcement Notice under section 24 of the Forestry Act 1967.

Non-compliance with an Enforcement Notice is an offence. Prosecution may lead to the court imposing a (further) unlimited fine set at its discretion. Furthermore, in respect of any Enforcement Notice served after 1<sup>st</sup> January 2023, the court may, in addition or instead of imposing a fine, make a Restocking Order.

A Restocking Order will again require the individual concerned to restock the land with trees. Non-compliance with the Order may be held to be in contempt of court. Non-compliance with any such Order may therefore result in a custodial sentence.

In addition to any fine or Restocking Order, such convictions may result in an application under the Proceeds of Crime Act 2002 for the confiscation of all profits made as a result of the illegal activity. The Forestry Commission would reasonably expect this to include all profit made in connection to any development of the site that would otherwise not have been possible had the original illegal felling not taken place, or Notice/Order had been complied with.

You should also note that Restocking and Enforcement Notices served from 1<sup>st</sup> January 2023 are local land charges. This means that once they have been served, they will appear on the local land charges register. This register is routinely checked by conveyancers as part of the buying and selling of land. As such, the land being listed on the register will alert any prospective purchaser to any liabilities that they may be taking on should they purchase the land.

### **Environmental Impact Assessment**

Felling trees without replanting may also constitute Deforestation under the Environmental Impact Assessment (EIA) (Forestry) (England and Wales) Regulations 1999. If we discover you have carried out work that would have required our Consent under the EIA Regulations we may issue you with an Enforcement Notice. This will require you to do one or more of the following:

- Stop work.
- Apply for consent from us.
- Restore the land to its condition before any work in relation to the relevant project was carried out.
- Where consent has been granted: carry out work to secure compliance with the conditions of consent.
- Remove or alleviate any damage to the environment that has been caused by the work.

### **Cross-compliance**

Compliance with the Forestry Act and EIA Regulations are both cross-compliance requirements for land managers in receipt of payments under the Basic Payment Scheme and the tree felling is a breach of the required Good Agricultural Environment Conditions (GAEC) we are required to refer the case to the Rural Payments Agency (RPA) for further consideration. This may lead to an inspection and/or possibly a financial penalty. The decision on any action taken is made by RPA but we will notify them of the facts of the case so they account of them in their decision making.

### **Timber Regulations**

UK legislation governing timber legality prohibits trade of illegally harvested timber and timber products. It requires those responsible for placing UK grown timber onto the market for the first time, the 'Operator', whether they are an owner, contractor or timber merchant, to maintain documentation to prove that the timber is harvested from a legally authorised resource.

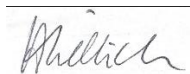
A timber regulations Due Diligence checklist is required when placing the timber on the market for the first time. The parties involved will need to complete and retain the Due Diligence checklist (along with any other documents that demonstrate the timber has been felled in conjunction with all other relevant legislation e.g. Health and Safety). More information on timber regulations is available on GOV.UK by searching 'Regulations: timber and FLEGT licences'.

If you contemplate any further tree felling and are in doubt as to the need for a felling licence or the requirements for EIA consent, you are strongly recommended to consult the Forestry Commission for advice.

Whilst the Commission is taking no further action in respect of the felling at this time, I wish to clarify that this decision relates solely to any enforcement action or proceedings initiated by or on behalf of the Forestry Commission and solely in relation to the works undertaken at the above property at the time specified above. Nothing in this letter should be taken to in any way reflect the decisions or actions of other public bodies who may be conducting investigations or initiating proceedings in relation to regulatory controls other than those set out within the Forestry Act 1967 and Environmental Impact Assessment (EIA) (Forestry) (England and Wales) Regulations 1999.

If you contemplate any further tree felling and are in doubt as to the need for a felling licence or the requirements for EIA consent you are strongly recommended to consult this office for advice.

Yours sincerely,



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CC: Hayley Crump, Woodland Officer, Forestry Commission (by email)  
Danielle Lea-Smith, Field Manager, Forestry Commission (by email)