

01.03.2024

Mr Neil Foulkes

By email only: neilfoulkes62@gmail.com

RE: European Communities (Access to Information on the Environment) (“AIE”) Regulations 2007, as amended.

Our Ref: AIE Request 20240005

Your Ref: Coillte Nature CLG Members Agreement

Dear Mr Foulkes

I refer to the AIE Request dated 04.01.2024 under the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 (hereafter referred to as the AIE Regulations), for access to information held by Coillte as follows -

I wish to request under the Access to Information on the Environment Regulations, in electronic format;

A copy of the Members’ Agreement entered into, on or about the date of 11-11-2021, between Nature Partners CLG; Coillte Cuideachta Ghníomhaíochta Ainmnithe; and Environmental Preservation Trust Company Limited By Guarantee.

Any subsequent amendments to that agreement

Summary of Decision

I made a final decision on the request on 27.02.2024. Having identified records relevant to the Request I am refusing access to these records under Article 9(1)(c) of the AIE Regulations.

Article 9(1)(c) of the AIE Regulations provides that a public authority may refuse to make environmental information available if disclosure of the information requested would adversely affect commercial or industrial confidentiality, where such confidentiality is provided for in national or Community law to protect a legitimate economic interest.

Coillte also relies on the Irish law of confidence which has developed under the Common Law, and under which information that is confidential by agreement, inherently confidential in nature, or pursuant to an equitable duty of confidence, is protected at law. Further, section 33 of the Forestry

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Act 1988 can be seen as an express provision of Irish national law providing for the protection of any commercial and/or industrially confidential information such as the Members Agreement in this instance.

In this regard, the Members Agreement imposes an express confidentiality obligation on Coillte to not provide a copy of the Agreement to any third party without prior written consent of the other parties to the Agreement. In this regard, Coillte has engaged directly with Nature Partners CLG who have indicated they do not consent to the Agreement being provided.

Conclusion

In consideration of the foregoing, this Request is refused under Article 9(1)(c) of the AIE Regulations.

Right of Review

Under Article 11 of the AIE Regulations you have a right to request an internal review of this decision. An internal review involves a complete reconsideration of the matter by a member of the staff of Coillte, unconnected with the original decision, and of the same or higher rank than the original decision-maker, who may affirm, vary or annul the original decision.

If you wish to request an internal review, you can do so by writing to the following, referring to this decision and quoting the AIE reference number. This request must be made within one month of the date of receipt of this decision. The decision of an internal review will be communicated to you within one month of receipt of your request for an internal review.

Nicola Wall
Information and Data Protection Officer
Coillte CGA
E-mail: aie@coillte.ie

Yours sincerely,

Sent by email, no signature

Sharon Byrne
Environmental information Officer
Coillte CGA
Email: aie@coillte.ie