

Mr Neil Foulkes

By email only: neilfoulkes62@gmail.com

8 November 2024

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

Our Ref: AIE Request 20240153

Your Ref: Coillte Works adjacent to Vartry River, Wicklow

Dear Mr Foulkes,

I write to you on behalf of Coillte, with regard to the internal review requested by you on 7 October 2024, per your entitlement under Article 11 of the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 (S.I. No. 133 of 2007, S.I. No. 662 of 2011, S.I. 615 of 2014 and S.I. No. 309 of 2018) (the “**AIE Regulations**”). This internal review request relates to an original AIE Request received from you on 6 September 2024 (“**the Request**”).

In line with Article 11(2) of the AIE Regulations, I confirm that I am unconnected with and am of more senior rank than the person who made the initial decision (“**the Decision**”).

The Request

The Request to which this internal review relates, sought disclosure pursuant to the AIE Regulations as follows:

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“Information related to the construction, reopening, upgrade or maintenance of forest roads, recreation trails or other temporary/permanent roads/trails and their related drainage operations, and surfacing, to and adjacent to sea trout spawning pools on the Vartry River in Devils Glen, Wicklow to include, but not restricted to;

1. *Meetings - internal and external*
2. *Environmental Risk Assessment*
3. *Ecological Surveys*
4. *Screening under Article 6(3) of the Habitats Directive (including discussions in relation to the need for an Appropriate Assessment)*
5. *Assessment under Article 6(3) of the Habitats Directive*
6. *(i) Operational Records, including (ii) environmental monitoring*

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7. *Date of works*
8. *Relevant Correspondence, internal and external - all media*
9. *Data collected on the Field Data Collector App.*
10. *Complaints and meetings to address the same*

Please consider the period 2022 to date."

First Decision

A Decision issued to you on 4 October 2024. The Decision refused the Request, on the basis of Article 7(5) which provides that *"where a request is made to a public authority and the information requested is not held by or for the authority concerned, that authority shall inform the applicant as soon as possible that the information is not held by or for it."*

The First Decision outlined the searches and steps taken to establish if relevant environmental information exists, subsequently it was determined that such environmental information did not exist and was not held by or for Coillte.

Request for an Internal Review

I note that an internal review decision should have issued to you on or before 7 November 2024. Due to a high volume of internal review requests, which has put some pressure on the service, a decision did not issue to you on time, for which we apologise.

The request for an internal review, was as follows:

"I wish to request an internal review of this decision. The attached record acquired under AIE from IFI clearly indicates the involvement of Coillte Nature in this project.

The decision does not indicate that members of Coillte Nature were contacted to enquire as to what information they may hold."

The Internal Review

Per Article 11(2) of the AIE Regulations, my role is to affirm, vary, or annul the Decision. Having re-examined both the Request and the Decision, I **vary** the Decision, and I will now explain the basis that forms decision.

Reasons for Decision

Point 1, 6(i) and 7

Maintenance works were carried out during July and August 2024, which entailed removal of cherry laurel,

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trail maintenance, vegetation removal, silt trap installation and the installation of a timber handrail. The following meetings were held in relation to these works:

- Meetings were held with the Inland Fisheries on the following dates 22 August 2024, 17th May 2024 and 24 April 2024.
- A meeting was held with the Forest Service inspector on 22 August 2024.
- A meeting was held on 7 August 2024 between Barry Coad (Forest Operations Manager) Fergal Caffrey (IFI), Declan Little (Ecologist, Coillte Nature) and Konrad Jay (Vartry Angling Club and Vartry Landowner).
- Following a complaint which was received by text message, stakeholder engagement took place on 26 July 2024 with a local stakeholder to explain the purpose of the works. I can confirm that the text message was deleted once the meeting with the stakeholder was arranged and no record exists.

One record was exported from the Business Resource Manager system, in relation to this maintenance operation, which is being released to you in full with this internal review decision.

Points 2-5, 6(ii), 8-10.

I am refusing the information in relation to the remaining elements of the Request on the basis of Article 7(5) which provides that *"where a request is made to a public authority and the information requested is not held by or for the authority concerned, that authority shall inform the applicant as soon as possible that the information is not held by or for it."*

I am aware from the decisions of the Commissioner in **Mr G and Department of Agriculture, Food and the Marine and Mr X and Environmental Protection Agency** that I am required to justify how I concluded that the records do not exist. I am satisfied that reasonable steps were taken to try to identify and locate the relevant environmental information.

I have detailed below the steps taken to search for the information requested and have provided some information about the records management practices of Coillte, insofar as those practices relate to the requested category of information.

As part of the internal review process, I reviewed the search steps taken. The Request was assigned to the Estates Team in Business Area Unit 4. On 25 September 2024 and 2 October 2024 engagement took place with Coillte's Estates Team Lead, Coillte's Operations Manager and Coillte Nature's Environmental and Technical Specialist to discuss the Request in detail. Key word searches were carried out on SharePoint Online and Microsoft Outlook, as these are the systems generally used to generate, store and share information on this topic. Examples of key words used were *'Vartry', 'Vartry River', 'Vartry Devil's Glen.'*

Following these detailed enquiries outlined above, additional discussions were held with the relevant SME on 7 November 2024, I am satisfied that reasonable and adequate steps were taken to search for information in

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relation to points 2-5, 6(ii), 8-10 of the Request and it was confirmed that no information for these elements of the Request exists.

The basis on which Coillte has concluded that information sought does not exist is that this site is not a designated area, there are no instream works planned and the minor works were undertaken to an existing trail, therefore no AA screening was deemed necessary by local Coillte management.

Conclusion

For the reasons detailed above, I vary the initial Decision.

If you are unhappy with this decision, you have the right to appeal it to the Commissioner for Environmental Information. You have one month within which to lodge such an appeal from the date of receipt of this Internal Review decision. Further information on making an appeal can be found at the Commissioner's website <https://www.ocei.ie/making-an-appeal/how-to-appeal/>

Yours sincerely,

Sent by email, no signature

Internal Review Officer
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