

[REDACTED]

Dear Ms/Sir,

My name is [REDACTED] I am [REDACTED] with [REDACTED]. I wish to make a request of The Department of Agriculture, Food and the Marine under the European Communities (Access to Information on the Environment Regulations) 2007 to 2014.

By way of background information - on the 29th of July 2019, I applied to [REDACTED] Co. Council for a determination under S5 of the Planning and Development Acts 2000 – 2018 ([REDACTED]) as regards Drainage of wetland habitat (Raised Bog) and mechanical disturbance, extrusion of peat and removal of turf from a site at [REDACTED]. On the 29th of August 2019 I received a letter from [REDACTED] Co. Council informing me that [REDACTED] Co. Council had failed to deal with the application within the appropriate time frame and that should I wish, I could refer the matter to [REDACTED]. On the 30th of August 2019, I referred the Application for determination under S5 of the Planning and Development Acts 2000 – 2018 [REDACTED] to [REDACTED].

On the 19th December 2019, [REDACTED] [REDACTED] deemed that:

- The activity outlined was development;
- The activity would require Environmental Impact Assessment; and
- The activity requires Appropriate Assessment.

During 2020 and 2021, peat extraction continued at the site unabated in spite of the determination of [REDACTED]. Following the threat of an injunction (from solicitors on behalf of myself), [REDACTED] approached the contractor (extracting on a commercial scale on lands and claiming that he was undertaking the works on behalf of Turbary Rights Holders but providing no evidence of same) and directed him to cease actions (please see attached correspondence from [REDACTED] to [REDACTED] Co. Council). The contractor refused to cease and continued the unauthorized development.

On the 11th of November 2021, I submitted (AIE 21/231) a request the following information such as to assess if the contractor is indeed operating with the full authorization of all Turbary Rights Holders to undertake unauthorized activity that is having a negative impact on the environment and for which no Environmental Impact Assessment Report or Appropriate Assessment has been undertaken:

- 1) What form of Right to Turbary is in place at Folio [REDACTED] i.e.
 - a. Vest and register the bog in individual plots to their allottees;
 - b. Vest and register the total bog to one tenant subject to rights of turbary to other tenants;
 - c. Retain the fee simple interest in the bog subject to turbary rights vested in the tenants;
 - d. Turbary right vested as appurtenant to lands (more particularly the house) vested in the tenant;
 - e. Right to turbary created to exist in gross – i.e., granted to an individual who was not and is not a tenant of the estate.

- 2) I seek access to information regarding the proof available that any individuals do indeed hold a legitimate Right to Turbary at [REDACTED] whether that be through Appurtenant Right to Turbary, Q3 Agreement, etc. I do not seek access to information protected by confidentiality – merely sufficient written evidence that such proof exists. i.e. sensitive information regarding names, addresses, etc. should be redacted;
- 3) If the Right to Turbary exists as an Appurtenant Right to Turbary associated with the hearth of the house to which the Appurtenant Right to Turbary pertains, I would like access to information regarding the Folio Numbers of all properties with Appurtenant Right to Turbary at Folio [REDACTED]
- 4) If Right to Turbary exists in the form of a lease, what is the length of the lease, what period of time is remaining on the lease and who will enforce cessation of peat extraction when the term of the lease has expired; and
- 5) The rights granted under the Land Acts were restricted to cutting turf for the house only, or for manure on the lands but **specifically not for sale**. I would like access to any documentation pertaining to the investigation of quantity of turf being harvested and enforcement regarding any instances in which the right to turbary was exceeded and any penalties resulting.

On the 10th of December 2021, I received an extension letter with regard to AIE Request 21/231 stating that "...you can therefore expect to receive a reply to your request by 9 December 2022..."

Following a large volume of follow-up emails and phone calls, there no longer appears to be any engagement regarding this matter as my phone calls are no longer answered and my emails receive no response. I am deeply concerned that the commercial extraction of peat under the guise of Right to Turbary is having a disastrous impact on the local environment, as evidenced by the fact that [REDACTED] [REDACTED] have ruled that the activity being undertaken at the site in question would require an Environmental Impact Assessment Report and Appropriate Assessment. Peat extraction continued unabated in 2022 and will shortly recommence for the 2023 season.

I wish to make a **new** request of The Department of Agriculture, Food and the Marine under the European Communities (Access to Information on the Environment Regulations) 2007 to 2014 regarding my original AIE request (AIE 21/231). I would like a copy of all information pertaining to AIE 21/231, including any correspondence including the word "draft", where this does not refer to material that is incomplete or in preliminary or draft form, such as reports or studies. Please include copies of all my own correspondence, including records of calls etc.

I would be grateful if you could provide this information in an electronic format.

I would also like to enquire as to why my original AIE (AIE 21/231) was not addressed within the statutory timeframe and why the representative of the Department refused to engage with phone calls or e-mails.

Best regards,

[REDACTED]

[REDACTED] (phone number [REDACTED])



24/05/2023

[REDACTED]

Re: AIE request 23/215

Dear [REDACTED]

I refer to your request for information under the European Communities (Access to Information on the Environment) Regulations 2007 to 2018. You requested the following:

On the 11th November 2021, I submitted (AIE 21/231) a request the following information such as to access if the contractor is indeed operating with the full authorisation of all Turbary Right Holders to undertake the unauthorised activity that is having a negative impact on the environment and for which no Environmental Impact Assessment Report or Appropriate Report or Appropriate Assessment has been undertaken:

- 1) What form of Right to Turbary is in place at Fohid [REDACTED].
 - (a) Vest and register the bog in individual plots to their allottees;
 - (b) Vest and register the total bog to one tenant subject to rights of turbary to other tenants;
 - (c) Retain the fee simple interest in the bog subject to turbary rights vested in the tenants;
 - (d) Turbary right vested as appurtenant to lands (more particularly the house) vested in the tenant;

An Brainse Tairfead, An Rannóg um Sheirbhísí Dlí,
Aonad aon déag, Eastát Tionsclaíoch Chluain Mhionnán, Port Laoise, Chontae Laoise, Éire

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Email: recordsbranch@agriculture.gov.ie Web: www.agriculture.gov.ie



(e) Right to turbary created to exist in gross-fee; granted to an individual who was not and is not a tenant of the estate.

2) I seek access to information regarding the proof available that any individuals do indeed hold a legitimate Right to Turbary at [REDACTED] whether that be through Appurtenant Right to Turbary, Q3 Agreement, etc. I do not seek access to information protected by confidentiality-merely sufficient written evidence that such proffer exists i.e. sensitive information regarding names, addresses etc should be redacted.

3) If the Right to Turbary exists as an Appurtenant Right to Turbary associated with the hearth of the house to which the Appurtenant Right to Turbary pertains, I would like access to information regarding the Folio Numbers of all properties with Appurtenant Right to Turbary at Folio [REDACTED]

4) If Right to Turbary exists in the form of a lease, what is the length of the lease, what period of time is remaining on the lease and who will enforce cessation of peat extraction when the term of the lease has expired; and

5) The rights granted under the Land Acts were restricted to cutting turf for the house only or for manure on the lands but **specifically not for sale**. I would like access to any documentation pertaining to the investigation of quantity of turf being harvested and enforcement regarding any instances in which the right to turbary was exceeded and penalties resulting.

I have made a final decision on your request today, 24/05/2023 and have decided to part grant your request. I can be contacted on 057 8634985 should you have any questions about your request.

I shall answer each question separately as follows:

An Brainse Taifead, An Rannóg um Sheirbhísí Dlí,
Aonad aon déag, Eastát Tionsclaíoch Chluain Mhionnáin, Port Laoise, Chontae Laoise, Éire.

Records Branch, Legal Services Division,
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1) What form of Right to Turbary is in place at Folio [REDACTED] i.e.

(a) Vest and register the bog in individual plots to their allottees;

Response : Folio [REDACTED] is registered to [REDACTED] with a right of turbary given to a number of individuals.

(b) Vest and register the total bog to one tenant subject to rights of turbary to other tenants;

Response : Folio [REDACTED] is registered to [REDACTED] with a right of turbary given to a number of individuals

(c) Retain the fee simple interest in the bog subject to turbary rights vested in the tenants;

Response : [REDACTED] are the Fee Simple owner of the bog.

(d) Turbary right vested as appurtenant to lands (more particularly the house) vested in the tenant;

Response : Some agreements do have this right.

(e) Right to turbary created to exist in gross-i.e; granted to an individual who was not and is not a tenant of the estate.

Response : Some agreements do have this right.

2) I seek access to information regarding the proof available that any individuals do indeed hold a legitimate Right to Turbary at [REDACTED] whether that be through Appurtenant Right to Turbary, Q3 Agreement, etc. I do not seek access to information protected by confidentiality-merely sufficient written evidence that such proffer exists i.e. sensitive information regarding names, addresses etc should be redacted.

Response : I can confirm that there are in excess of 40 individuals who hold a Right of Turbary over Folio No. [REDACTED] as per records held relating to [REDACTED]

3) If the Right to Turbary exists as an Appurtenant Right to Turbary associated with the hearth of the house to which the Appurtenant Right to Turbary pertains, I would like access to information regarding the Folio Numbers of all properties with Appurtenant Right to Turbary at Folio [REDACTED].

Response : Only [REDACTED] are entitled to this information as the registered owner of Folio No. [REDACTED]

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4) If Right to Turbary exists in the form of a lease, what is the length of the lease, what period of time is remaining on the lease and who will enforce cessation of peat extraction when the term of the lease has expired; and

Response : These turbary rights were not allotted under a lease by the former ILC.

5) The rights granted under the Land Acts were restricted to cutting turf for the house only or for manure on the lands but **specifically not for sale**. I would like access to any documentation pertaining to the investigation of quantity of turf being harvested and enforcement regarding any instances in which the right to turbary was exceeded and penalties resulting.

Response : Please note that no records exist for this part of your request.

If for any reason you wish to appeal this decision you may do so by writing to the Freedom of Information Unit at the Department of Agriculture, Food and the Marine, Pavilion A, Grattan Business Centre, Dublin Road, Portlaoise, Co. Laois, R32 K857. You may also submit your appeal by e-mail to: foi@agriculture.gov.ie . You must make your appeal within one month of this notification.

Yours sincerely,

Isabella O'Sullivan
Higher Executive Officer
Records Branch
Legal Services Division