

25 Oct 2024

Commercial Peat Extraction within County Longford

County wide Enforcement Plan

Longford County Council in its role as Planning Authority shall investigate all bogs within its functional area where it suspects or is of the view that Unauthorised Commercial Peat extraction is taking place at any location, nature or scale that requires environmental protections to be in place. This investigation shall include but not be limited to, peat extraction including related drainage of bogland which involves a new area or extended area of **30 hectares** or more since 11 March 2002, where planning permission and or an Environmental Impact Assessment may be required in accordance with the terms of the Planning & Development Act 2000. Also peat extraction including related drainage of bogland commenced after 21 January 2002 in a new or extended area of **10 hectares** or more which may not be exempt from planning permission since 21 January 2002. This investigation shall include Site inspections to include photographs. Land Registry searches will be carried to establish ownership of the areas in question. Area calculations will be carried using online mapping applications.

Legislation

- The investigations shall have regard to the following directives.
- Environmental Impact Assessment Directive (Directive 2011/92/EU, as amended).
- The Birds Directive (Directive 2009/147/EC, as amended)
- The Habitats Directive (Directive 92/43/EEC, as amended), the Local Government Water Pollution Act 1977 & 1990 and
- The Environmental Protection Agency Act 1992 in respect of unauthorised commercial peat extraction.

Enforcement

Where considered necessary enforcement will be carried out in accordance with Part VIII (8) of the Planning & Development Act 2000 and the following articles:

- 151 Offence
- 152 Warning Letter
- 153 Decision on Enforcement
- 154 Enforcement Notice
- 155 Issue of Enforcement notice in cases of urgency
- 156 Penalties for Offences
- 157 Prosecution of Offences
- 158 Offences by bodies corporate
- 159 Payment of fines to Planning Authorities
- 160 Injunctions in relation to Unauthorised Development
- 161 Costs of prosecutions and applications for injunctions
- 162 Evidence of permission
- 163 Permission not required for any works required under this Part,
- 164 Transitional arrangements for Offences.

Timeframes for Enforcement

- Warning letters (152) to be issued not later than 6 weeks from receipt of complaint.
- Decision on Enforcement (153) shall be taken within 12 weeks of the issue of Warning Letter.
- Enforcement Notice (154) to be issued within 2 weeks of decision.
- Prosecution of Offences (summary) shall be commenced within 6 months of the date of offence.

Caselaw

Regard shall be had to the judgment of Ms Justice Siobhan Phelan in Harte Peat Ltd v The Environmental Protection Agency, Ireland and The Attorney General [2022] IEHC 148. In particular, the elements of this Judgment which detail how the area involved in commercial peat extraction should be calculated and how exempt status of peat extraction should be considered where EIA or AA might be required.

Conclusion

Longford County Council Planning Department shall urgently investigate all suspected Unauthorised Peat extraction within its functional area and where deemed necessary carry out enforcement in full accordance with the terms of the Planning & Development Act 2000 (as amended).

