



Coimisinéir um Fhaisnéis Comhshaoil
Commissioner for Environmental Information

**Decision of the Commissioner for Environmental Information
on an appeal made under article 12(5) of the European Communities
(Access to Information on the Environment) Regulations 2007 to 2018
(the AIE Regulations)**

Case: OCE-144582-V9V8D1

Date of decision: 8 May 2025

Appellant: Mr. Neil Foulkes

Public Authority: Coillte

Issue: Whether Coillte was justified in refusing access to the requested information under article 7(5) of the AIE Regulations

Summary of Commissioner's Decision:

The Commissioner annulled Coillte's decision under article 7(5) of the Regulations and directed it to provide the appellant with a new internal review decision.

Right of Appeal: A party to this appeal or any other person affected by this decision may appeal to the High Court on a point of law from the decision, as set out in article 13 of the AIE Regulations. Such an appeal must be initiated not later than two months after notice of the decision was given to the person bringing the appeal.



Background

1. On 13 April 2023, the appellant submitted an AIE request to Coillte, as follows:

“... The information requested in GIS format is:

Hazards and Features GIS information used by Coillte in the preparation of pre-licence Harvest Plan maps.

Attribute data to include the ID and Site Feature.

Features are prefixed with an ‘F’ and Hazards with an ‘H’

Should you wish to clarify any aspect of this request please do not hesitate to contact me at the email address indicated...”

2. This request was subject to a previous appeal by the appellant to this Office in [OCE-139596-G8H3D9](#). In the decision on that particular appeal, dated 4 August 2023, issued as part of a group decision on twenty (20) individual appeals, the Commissioner found that Coillte had not demonstrated that it has carried out reasonable and appropriate searches to identify and retrieve environmental information relevant to the request, and Coillte was directed to undertake a fresh decision-making process.
3. On 1 November 2023, Coillte issued a fresh decision, refusing the request under article 7(5) of the AIE Regulations. The decision maker outlined the steps taken to locate the requested information, as follows:

“...Steps taken to confirm if information exists include

- interviews with subject matter experts in the resource team, who use the attribute data and site features to develop shapefiles
- detailed discussions with the records management staff were held to discuss the Request and to explain why this information does not exist in material form but as separate components on the GIS application. Further details are provided below for your information.

I am satisfied that I took adequate steps to try to identify and locate relevant environmental information. To clarify, the data you request is components of raw data on a system, which in turn is then interpreted for a forest operation on a specific site. The forest site is assessed, the data is then categorised into attributes and this data is then compiled to create a shapefile for a particular site, to serve a particular forest operation.



To explain further, when Coillte is preparing a felling licence application, it prepares a number of maps to accompany the application. The pre-licence harvest plan map identifies the subject area of the application and contains the following additional information: -

- Felling licence number
- Planned year for felling operations
- Harvesting type, i.e., clearfell or thinning
- ITM co-ordinates for the site
- Townland and county boundaries
- Monuments
- Rivers, EPA streams and relevant watercourses (a type of feature)
- ESB overhead lines (a type of hazard)

Harvest plan maps are prepared and submitted in PDF format by Coillte to DAFM with each felling licence application. On validation of the application, the application pack and maps are published by DAFM on the FLV and are viewable by members of the public.

Harvest plan maps record multiple categories of information, including the existence of hazards and features on the site. Examples of hazards include ESB overhead lines or other utilities such as gas pipelines. Examples of features include EPA streams and relevant watercourses.

Coillte extracts data relating to these hazards and features from different sources. For example, ESB overhead lines come from a dataset provided by the ESB. EPA streams come from a dataset provided by the EPA. These datasets, along with others used to prepare licensing maps, are dynamic datasets regularly updated by the agencies or bodies with responsibility for maintaining them. These datasets are stored by Coillte in our Land Resource Management (LRM) system. Site-by-site data is extracted for the purpose of preparing the individual harvest plan maps, which are then furnished to DAFM in PDF format. Coillte does not provide data on hazards and features to DAFM in GIS format. Coillte made reasonable searches to ascertain whether the requested GIS information exists. The information does not exist in that format. Coillte's obligations under the AIE Regulations relate, inter alia, to the provision of environmental information held in material form upon request, subject to certain exceptions. Coillte is not obliged to create a GIS dataset of hazards and features to meet the appellant's request.

Having regard to the above, Coillte is satisfied that adequate steps have been taken by Coillte to identify and locate relevant environmental information relating to the Request. Coillte further considers that these steps were reasonable, having regard to the Request and all other circumstances."

4. On 1 November 2023, the appellant requested an internal review. Coillte issued its internal review outcome on 30 November 2023, which affirmed the original decision. The internal reviewer proffered the following reasons in support of this outcome:



“Following review of the Decision the data you requested is not standalone information that exists in a document, but components of raw data on a system that generates GIS shapefiles. The forest site is assessed, the data is then categorised into attributes and this data is then compiled to create a shapefile for a particular site, to serve a particular forest operation. In summary, the data you requested is a set of variables that are pulled together to create a shapefile. A variable is a named unit of data that can store a value that may change or vary. Therefore, the information that you request does not exist as an actual output, i.e. shapefile document but in separate parts in a geographic computing system. I affirm the Decision in relation to the information sought under the Request. I am satisfied that having taken all reasonable steps to locate the requested information, that no material records exist with this information. Your Request was refused under Article 7(5) of the AIE Regulations. Article 7(5) sets out 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”*, as Coillte did in the Decision letter.

I am aware from the decisions of the Commissioner... 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 categories of information.

As outlined the records typically created in relation to the topic are datasets that are stored by Coillte’s Land Resource Management (LRM) system. Site-by-site data is extracted for the purpose of preparing the individual harvest plan maps, which are then furnished to DAFM in PDF format. Coillte does not provide data on hazards and feature to DAFM in GIS format. This type of raw data would be searched for on Coillte’s Geographical Information Systems (GIS) and the Local Resource Management System. The searches entailed key word searches and or data sets querying.

In this instance, in order to determine if records relevant to the Request exist, detailed discussions were held with subject matter experts who deal with this type of information in Coillte to ascertain (a) if this information typically exists and/or is held by Coillte and (b) to request they carry out appropriate keyword and file searches if such information is held by Coillte being:

- (i) with a subject matter expert from Central Resource Team on 27 October 2023.
- (ii) with the Spatial Data Manager on 23 November 2023.

Following these detailed enquiries and discussions with the relevant subject matter experts, I am satisfied to confirm that information in relation to your Request does not exist in Coillte. On this basis I conclude the information sought does not exist.”



5. The appellant submitted an appeal to this Office on 9 December 2023 regarding Coillte's refusal of his request under article 7(5) of the AIE Regulations.
6. I am directed by the Commissioner for Environmental Information to conduct a review of this appeal. I have now completed my review under article 12(5) of the Regulations. In carrying out my review, I have had regard to the correspondence between Coillte and the appellant as outlined above, and I have considered all submissions made by the appellant and by Coillte to this Office on the matter. In addition, I have had regard to:
 - the Guidance document provided by the Minister for the Environment, Community and Local Government on the implementation of the AIE Regulations (the Minister's Guidance);
 - Directive 2003/4/EC (the AIE Directive), upon which the AIE Regulations are based;
 - the 1998 United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention); and
 - The Aarhus Convention—An Implementation Guide (Second edition, June 2014) ('the Aarhus Guide').
7. What follows does not comment or make findings on each and every argument advanced but all relevant points have been considered.

Position of the Parties

8. The appellant made a preliminary submission to this Office as part of his statement of appeal, with points as follows:
 - i. The appellant submitted that there is a fundamental conflict in Coillte's position to refuse information on the basis of article 7(5) of the AIE Regulations whilst at the same time admitting that the information exists.
 - ii. The appellant submitted that the data clearly exists and Coillte could not compile its application maps without access to that information. He submitted that the information is stored in GIS format and can be extracted from the larger database of which it forms a part and he argued that article 10(5) of the AIE Regulations could have been applied.
 - iii. The appellant submitted: "Coillte has acknowledged that it has the ingredients (the environmental information that I am seeking) but because this information does not exist in a consolidated form / as a single record Coillte has refused my request on the basis that the information does not exist or cannot be found."
 - iv. The appellant submitted that he has not sought a specific record; rather he has sought specific information and therefore, he does not consider Coillte's decision to represent a



correct interpretation of the AIE Regulations. He argued that Coillte is making an overly restricted interpretation of his request and the AIE Regulations in order to refuse him access to the information.

- v. The appellant provided this Office with a copy of a Felling licence Application pack (Reference: LM08-FL0175). Referencing the Harvest Plan Map at pages 6-7 of this pack, the appellant submitted that Hazards and Features are identified in the ID column by a pre-fix H or F and he argued that this should allow for them to be extracted from the “raw data” in GIS. The appellant submitted that this is how Coillte incorporates the information to its application mapping and submitted that an extract layer containing all data that has an ID pre-fix of H or F would meet his request.
9. Coillte made a submission to this Office on 11 April 2023, referencing the contents of its decision letter of 01 November 2023 and internal review decision thereafter of 30 November 2023, with points as follows:
- i. Coillte submitted that the appellant does not identify any particular pre-licence Harvest Plan maps for which he is seeking this information, nor does he specify a time period for the request. It argued, from that point of view, the request as framed lacks the specificity required pursuant to article 6(1)(d) of the AIE Regulations. It also noted that Coillte did not issue a refinement request to the appellant.
 - ii. Coillte submitted that Harvest Plan maps are prepared and forwarded in PDF format by it to the Department of Agriculture, Food & the Marine (DAFM) with each felling licence application and that these maps record multiple categories of information, including the existence of hazards and features on the site.
 - iii. Coillte submitted that it extracts data relating to hazards and features from different sources – for example, ESB overhead lines come from a dataset provided by the Electricity Supply Board (ESB) and EPA streams from a dataset provided by the Environmental Protection Agency (EPA). Coillte submitted that these datasets, along with others used to prepare licensing maps, are dynamic datasets regularly updated by the agencies or bodies with responsibility for maintaining them. It submitted that these datasets are stored by Coillte in its Land Resource Management (LRM) system; with site-by-site data extracted for the purpose of preparing individual harvest plan maps, which are then furnished to DAFM in PDF format.
 - iv. Coillte submitted that it has made reasonable searches to ascertain whether the requested GIS information exists, and it submitted that the information “does not exist in that format”. Coillte submitted that its obligations under the AIE Regulations “relate, inter alia, to the provision of environmental information held in material form upon request, subject to certain exceptions”. Coillte argued that it is not obliged to create a GIS dataset of hazards and features to meet the appellant’s request.



10. On 1 October 2024, an outline of Coillte's above submission was provided to the appellant for comment. In a series of follow up correspondence to this Office dated 8, 18 and 21 October 2024, the appellant made the following points:
- i. The appellant submitted that Coillte is aware of and does hold these datasets so the information exists; therefore, article 7(5) cannot be the correct decision. The appellant submitted that Coillte has not demonstrated that Hazards and Features are restricted to information from third party sources; having only indicated that they are of 'a type'. The appellant argued that Coillte has failed to indicate what other types of information are considered to be Hazards or Features. The appellant provided a copy of a Harvest Plan Map (Felling Licence: DU02-FL0174) to this Office. Referencing same, he submitted that Features also include Biodiversity Features. The appellant argued that Coillte has not demonstrated how the markers of 'F' and 'H' are applied as these do not form part of any original dataset.
 - ii. The appellant noted that Coillte extracts data relating to hazards and features from different sources, for example ESB and EPA provided datasets, which Coillte submits are regularly updated by the agencies or bodies with responsibility for maintaining them and which are stored by Coillte in its LRM system. The appellant provided a copy of a Harvest Plan Map (Project Area: CK11-FL0108) to this Office. Referencing same, he submitted that Coillte's Harvest Plan Maps include, as Features, Relevant Watercourses. The appellant argued, "to the best of [his] knowledge", this information is not publicly available. He submitted that Coillte clearly have access to this information in GIS format and he queried what the source of the Relevant Watercourse information contained in Harvest Plan Maps is. The appellant submitted that if Coillte is aware that information falling within the scope of his request is held by another public authority, it is obliged to inform him of this.
 - iii. The appellant also provided a copy of a Felling licence Application pack (Reference: WD10-FL0148) to this Office. Referencing same, he submitted that the Harvest Plan map includes a number of "Features" which are not publicly available, including F54 - Veteran Trees, F63 - RTE species, and F77 – Hotspot. The appellant argued that these are bespoke 'Features' that must occur in Coillte's own database and are not drawn from a central public source.
11. On 20 March 2025, this Office wrote to Coillte inviting final submission in respect of this appeal, to be forwarded within three (3) weeks. The investigator's correspondence included the above summary of the appellant's position and a copy of each of the referenced attachments provided by the appellant to this Office. The investigator also outlined several specific queries in relation to searches conducted and in relation to the specific information at issue. On 3 April 2025, Coillte contacted the investigator requesting an extension for response, in order to engage with subject matter experts. An extension was granted until 24 April 2025.
12. On 30 April 2025, the Investigator received the following response from Coillte, in two (2) follow-up emails:



“We have had detailed discussions amongst the AIE Team and the relevant Subject Matter Experts with regard to your letter of 20 March 2025 and our approach to this AIE Request and the Appeal.

We are of the opinion now, from learnings we take from Decisions of the Commissioner, and engagement generally with your office, that we should reexamine the Request and apply a reasonable broader interpretation. I appreciate that you have clearly spent time considering Coillte’s Article 7(5) refusal, but I respectfully ask that the Commissioner remits the Request to Coillte for a fresh decision-making process, or if the Appellant withdraws this Appeal he may submit a new AIE Request immediately.”

“... the proposal we have made should be considered as an informal resolution of the Appeal as we have done previously on other appeals.”

Scope of Review

13. In accordance with article 12(5) of the AIE Regulations, the role of this Office is to review the public authority’s decision and to affirm, annul or vary it. As such, this review is concerned with whether Coillte was justified in refusing access to the requested information under article 7(5) of the AIE Regulations.

Analysis and Findings

14. Article 7(1) of the AIE Regulations requires public authorities to make available environmental information that is held by or for them on request, subject to the provisions of the AIE Regulations. Accordingly, if a public authority wishes to refuse access to environmental information held by or for it, it must do so under an exemption provided for in the AIE Regulations.
15. Article 7(5) of the AIE Regulations is the relevant provision to consider where the question arises as to whether the requested environmental information is held by or for the public authority concerned. In cases where a public authority has effectively refused a request under article 7(5), this Office must be satisfied that adequate steps have been taken to identify and locate relevant environmental information, having regard to the particular circumstances. In determining whether the steps taken are adequate in the circumstances, a standard of reasonableness must necessarily apply. It is not normally this Office’s function to search for environmental information.
16. The appellant’s position is that Coillte's refusal to make available the requested information based on article 7(5) of the AIE Regulations, whilst in his view, at the same time admitting that the information exists, is not justified.



17. In correspondence from this Office dated 20 March 2025, the investigator requested Coillte to address the following queries:
- (i) To provide full details of guidelines, practices, procedures, and arrangements in relation to the storage, filing, archiving, retention, and destruction of the type of information sought in this request, i.e. datasets held by Coillte in GIS format concerning Hazards and Features.
 - (ii) In respect of each of the datasets identified in response to (i) above, to indicate whether the dataset is provided by an external source or produced internally by Coillte.
 - (iii) To explain how Hazards and Features are defined for the purpose of pre-licence Harvest Plan maps. For example, whether there is a pre-defined list of what qualifies as a relevant hazard or feature.
 - (iv) To explain how and when the markers of 'F' and 'H' are applied to hazard and feature information. For example, whether these markers contained in the datasets as stored in the LRM system or only applied in the preparation of each required pre-licence Harvest Plan map.
18. The investigator proffered her view that the information requested by the appellant may be held by Coillte on its LRM system, and as such, requested Coillte to further explain how it concluded that article 7(5) of the AIE Regulations is applicable to the request in this case.
19. The investigator also referenced Coillte's submissions dated 11 April 2023 wherein it stated: "Coillte made reasonable searches to ascertain whether the requested GIS information exists. The information does not exist in that format." Coillte was also requested to provide clear reasoning for this position, including detail of the format in which the GIS information can be said to exist.
20. In its correspondence to this Office on 30 April 2025, Coillte did not address any of the investigator's queries, while at the same time, commenting that its proposal to now re-examine the AIE request "should be considered as an informal resolution". It must be noted that this is the second occasion where Coillte's decision on this AIE request has been appealed to this Office, which is a regrettable situation for all parties, not least the appellant. As such, I will proceed to a formal binding decision.
21. In my view, Coillte has not interpreted the appellant's request reasonably, and the impact of its interpretation is to inappropriately find that that information requested does not exist. The information clearly exists, as Coillte uses the information to inform its licencing applications. Based on its recent correspondence, Coillte appears to have accepted that its interpretation was overly narrow, having proffered to re-examine the AIE request and apply a "reasonable broader interpretation".



22. Having now considered all materials made available by the parties for the purposes of this review, it is my understanding that Coillte clearly holds information within scope of the appellant's request. Coillte's decision of 1 November 2023 outlined how various datasets used by it to identify hazards and features are stored in its LRM system, and that site-by-site data is extracted for the purpose of preparing individual harvest plan maps. As such, I agree with the appellant that Coillte's refusal to make available the requested information based on article 7(5) of the AIE Regulations is not justified.
23. However, the extent of information sought by the appellant is also unclear to me in this case. The appellant appears to be seeking certain data from multiple GIS datasets held and used by Coillte, as and when required. However, there is no timeframe on the AIE request, and I consider it likely that at least some of these datasets are updated at regular intervals. This Office has limited knowledge of the datasets concerned and it is apparent that Coillte did not offer any assistance or guidance as to how the appellant could refine the request in this regard. Indeed, as part of Coillte's submissions to this Office dated 11 April 2023, it notes that "the request as framed lacks the specificity required pursuant to article 6(1)(d) of the AIE Regulations", but it also acknowledges that it did not issue a refinement request to the appellant.
24. I have decided that the most appropriate course of action to take in this case is to annul Coillte's decision and require it to provide the appellant with a new internal review decision under article 11 of the AIE Regulations. While it would be open to me to require Coillte to now identify information within the scope of the request and provide submissions on whether or not that information should be released, I consider it would be more efficient for this to be done through the carrying out of a new internal review decision-making process. In doing so, should Coillte wish to rely on any exemption provision provided for in article 8/9 of the AIE Regulations, it must fully set out its reasons for reaching its conclusions as well as, where relevant, its considerations of article 10 of the AIE Regulations, including paragraphs (3), (4), and (5). It will be open to the appellant to appeal again to this Office should he remain unsatisfied with the outcome of this new internal review.
25. Lastly, I wish to note that it can be reasonable to expect that a public authority may not be in a position to identify and retrieve information within the scope of a request if that request is formulated in too general a manner. This is recognised by the AIE Regulations and the Directive which allow public authorities to refuse requests on such a basis (see article 9(2)(b) of the Regulations and 4(1)(c) of the Directive).
26. However, if Coillte considers that the request in this case is too general, the requester should be offered assistance in preparing a more specific request, in line with the requirements of article 7(8) of the AIE Regulations. If Coillte remains of the view that no information within the scope of the request is held by or for it following engagements to refine the request or that the request has not been sufficiently refined, it should provide reasoning for that position to the appellant in accordance with the requirements of article 7(4) of the AIE Regulations and the



general duty to give reasons as set out in cases such as *Meadows v Minister for Justice* [2010] IESC 3 and *Balz & Anor v An Bord Pleanála & Ors* [2019] IESC 90.

Decision

27. Having carried out a review under article 12(5) of the AIE Regulations, on behalf of the Commissioner for Environmental Information, I hereby annul Coillte's decision under article 7(5) of the Regulations and direct it to provide the appellant with a new internal review decision.

Appeal to the High Court

28. A party to the appeal or any other person affected by this decision may appeal to the High Court on a point of law from the decision. Such an appeal must be initiated not later than two months after notice of the decision was given to the person bringing the appeal.

Julie O'Leary
On behalf of the Commissioner for Environmental Information
8 May 2025