



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-122539-B1T8K3

Date of Decision: 11 August 2025

Appellant: Mr. Neil Foulkes

Public Authority: Department of Agriculture, Food and the Marine (the Department)

Issue: Whether articles 8(a)(iii), 9(1)(a) or 9(1)(b) of the AIE Regulations can be applied to the information requested by the appellant

Summary of Commissioner's Decision:

The Commissioner annulled the Department's decision and directed release of the information identified as relevant to the request.

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. Forestry accounts for approximately 12% of land use in Ireland. Just under 50% of the total forest area is under public ownership, mainly managed by semi-state forestry company, Coillte, and just over 50% is under private ownership (<https://assets.gov.ie/static/documents/forest-statistics-ireland-2024.pdf>).
2. Forestry in Ireland operates within a legal and regulatory framework. A felling licence granted by the Minister for Agriculture, Food and the Marine is required under the [Forestry Act 2014](#) to uproot or to cut down any tree (subject to certain exemptions).
3. Active Harvesting Sites are areas within a forest where timber is being extracted, either through thinning or clear-felling. The felling and extraction of timber are high risk operations which are also subject to strict [health and safety rules](#). It is my understanding that the duration of forestry harvesting at specific sites can vary from weeks to months, depending on different operating factors.

Active Harvesting Sites

4. As above, all tree harvesting and replanting operations (thinning and clearfell) may only occur once a felling licence has been obtained. The felling licence is granted by the Forest Service of the Department, and this gives consent for tree harvesting and replanting operations to occur at these sites. In areas that may be environmentally sensitive, the Forest Service may seek additional information or add conditions to the licence. Failure to adhere to licence conditions and mandatory measures may trigger a variety of responses as per Sections 27-29 of the [Forestry Act 2014](#).
5. Appendix 2 of [Ireland's Forest Strategy Implementation Plan](#) 'An Overview of Forestry and the Protection of the Environment' provides an overview of the various environmental safeguards applied by the Department as it executes its role regulating the Irish forestry sector. This document outlines that a range of inspection processes are undertaken by the Department in relation to forestry activities, including the pre-approval certification process and follow-up post works inspections. Ad hoc inspections are also undertaken where particular issues give rise to the need for an assessment by a Forestry Inspector or specialist, for example – inspections triggered by reports from various parties (e.g. members of the public, officials from other statutory bodies) regarding unlicensed felling, afforestation or road works, breaches of environmental conditions, and environmental damage.
6. According to the above publication (page 126), various protocols are also in place regarding the inspection of Coillte harvesting and reforestation sites, which involve the following:
 - (i) An Active Site List is maintained, based on a list of sites provided by Coillte, where harvesting is expected to commence within the next 7-day period. Database queries are



run for these sites to desk-check compliance with certain licence conditions, and site inspections may be initiated where issues arise, e.g. where a site with a timing restriction related to Hen Harrier or Merlin appears on the Active Site List during that restricted period.

- (ii) Reforestation Inspections are undertaken, based on data submitted by Coillte at the beginning of the year. This data lists sites harvested at least 2 years previously and which therefore should be replanted. The data are analysed to gauge utilisation, and sites are selected for field inspection vis-à-vis compliance with replanting conditions.
 - (iii) Harvesting Inspections are also undertaken, with sites selected for field inspection from the weekly Active Sites List provided by Coillte. Inspections take place during or shortly after harvesting has taken place.
 - (iv) There is also an option for certifying Inspectors to include a commencement notice within the licence, which gives a start and end date for harvesting operations. These highlight particular sites of interests which Inspectors may wish to visit.
7. The information sought by the appellant in this case concerns the “weekly Active Sites List provided by Coillte”, as referenced at point (iii) above.

The AIE Request

8. On 21 February 2022, the appellant made a request to the Department under the AIE Regulations, seeking the following information:

“All weekly notifications provided by Coillte to the Forest Service of [the Department] of Active Harvesting Sites in 2022.”

9. The Department responded to the appellant’s request on 11 March 2022, refusing access to the information, on the basis that, “the document ... requested does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken”.
10. The appellant sought an internal review of the decision on 12 March 2022. In this correspondence, he included the following extract from a response by the Minister for Agriculture, Food and the Marine dated 26 January 2022 to a parliamentary question posed by Deputy Richard Boyd Barrett ([PQ 3742/22](#)):

"In relation to Coillte sites, harvesting site visits have already started in relation to this 2022 programme of inspections. In support of this work, Coillte now submit to the Department a table of active harvesting sites from which the Department select a sample of forest areas to visit, either during or after harvesting has taken place."



11. The appellant submitted that the above “would suggest that either records exist or the Minister has misinformed Deputy Boyd Barrett”.
12. On 13 April 2022, the internal reviewer for the Department issued a decision as follows:

“I have had regard to the original request and the appeal letter that you submitted, and I have decided to vary the original decision. I wish to clarify that [the Department] do receive weekly active harvesting sites from Coillte. However, having reviewed that information I am not satisfied to release the Sites. I believe that to release the information would adversely affect the course of justice in that the ability of authorised officers to carry out their powers under the Forestry Act 2014 may well be impinged. I also wish to inform you that I have consulted with Coillte as the owner of this data and they have made a submission on the matter.”

Chronology of this Appeal

13. On 25 April 2022, the appellant brought an appeal to this Office following the Department’s internal review decision to refuse his request on the basis of article 9(1)(b) of the AIE Regulations. This was followed up with supporting submissions on 6 May 2022.
14. On 5 May 2022, the Department was notified of the acceptance of this appeal and, as per this Office’s standard procedures, was requested to forward both the subject matter information/records at issue (“main records”) and a final submission in support of its decision.
15. The Department made submissions to this Office on 25 May 2022. Primarily, it reaffirmed the internal review decision, stating: “The Department’s position continues to be that to release the information would adversely affect the course of justice in that the ability of authorised officers to carry out their powers under the Forestry Act 2014 would be impinged.” The Department also submitted that, “the voluminous nature of the request, should it be granted, would seriously disrupt the workings of Forestry Division, necessitating an even greater diversion of resources than already are devoted to AIE requests. It is presumed also, that the applicant would continue to request the notifications on an ongoing basis. Given the huge increase in AIE applications in this area over the last two years, others are likely to also.”
16. The Department submitted that the following points further support the internal reviewer’s decision: “AIE guidance regarding the open-ended nature of the request which public authorities are not obliged to provide”; “the protection of the integrity of the inspection system [and]... the confidentiality of the internal operations of a public authority, namely the work of forest managers and the danger to public security of such an information release”; “the course of justice, as forestry inspections are effectively live investigations”; “commercial and industrial confidentially (many harvesting sites are part of a live commercial sales



transaction)”; and “the material remains in the course of completion, i.e. the process of investigation is ongoing at this point”.

17. The Department argued that “it is clearly not in the public interest for such a release of records on an on-going basis to the public. These reports are important for the on-going administrative management of the forestry service, but do not serve any useful purpose to the public by releasing them.” The Department also submitted that much of the information on licences and forestry developments is already available on the Department’s website (<https://www.gov.ie/en/publication/public-consultation-on-forestry/>) in general and, in particular, on the Forestry Licence Viewer (<https://flv.apps.services.agriculture.gov.ie/>) and that “these contain sufficient details sufficient to satisfy public interest in forestry matters”.
18. On 26 May 2022, this Office queried the non-provision of main records in this case. In response, the Department submitted: “We would normally provide the information being requested to you (or indeed the requester) if readily available. The internal review notes that we receive notifications, not that we assemble them, as requested by the requester. As regards the records being requested here, they would be vast and we have not prepared them. For the reasons outlined in the submission, which are numerous and outline clearly the unreasonableness of the request and the requirement to protect the integrity of the system. The request, should it be granted, would have a severe disruptive effect on the work of the Division.”
19. On 4 May 2023, this Office issued a further request for submissions to the Department in this matter. On 4 April 2024, the Department advised that it did not intend to make further submissions and wished to rely on its original submissions dated 25 May 2022.
20. Both the Department’s internal review decision and its submissions to this Office indicated that Coillte had made a submission to it at the time of original request processing, as a relevant third party who may be impacted by the release of the information. However, despite a specific request from this Office to the Department on 15 April 2024 seeking a copy of any submissions made by Coillte directly to the Department at that time, no response was forthcoming.
21. On 14 June 2024, this Office contacted Coillte directly to notify it of this appeal and provide it with an opportunity to make submissions on potential disclosure of the information at issue. At this time, Coillte sought a copy of the main records in this case from this Office. However, as per this Office’s standard procedures, Coillte was advised to contact the Department with regard to further detail regarding the AIE request, the information concerned, or the Department’s position on the matter.
22. On 15 July 2024, the Department released certain information to the appellant, that being one (1) record containing a list of the licence numbers notified to it (by Coillte) as being “active sites” during 2022 and the dates of notification for each licence number/site. This



updated position stated as follows: “When preparing records for the OCEI in this case I have come to the decision to release this information to you as these sites are no longer active.” The appellant responded to the Department that same day, noting that he was not satisfied with this response, and stating that his request was for “a copy of the weekly notifications from Coillte, and not a summary list”.

23. On 17 July 2024, Coillte reverted to this Office regarding its position, advising as follows: “... Whilst we have not seen the environmental information which [the Department has] based its refusal on, we are satisfied that the harvesting sites, which would be identified in disclosing such information, are all no longer active therefore the grounds that we would have put forward at the time in support of a refusal are no longer relevant. We suggest that the information be released. We will not be making a submission as a third party. This is entirely without prejudice to the grounds of refusal which we would put to you if the sites were active.”
24. On 9 October 2024, this Office wrote to Coillte informing it that I would be considering this appeal as if the sites were now “active”, i.e. whether the decision was correct at the time of the request. Accordingly, Coillte was requested to provide submissions as to the grounds of refusal that it would put forward if the sites were active.
25. On 12 and 13 December 2024, Coillte made submissions to this Office, supporting a refusal to release Active Site Lists under article 8(a)(iii), 9(1)(a) and 9(1)(b) of the AIE Regulations.
26. On 22 April 2025, this Office wrote to the Department seeking confirmation of its current position regarding release of the information requested, at a time when the harvesting sites could be considered active. The Investigator also noted that the record released by the Department on 15 July 2024 indicated 43 individual dates where notifications were provided by Coillte to the Department of active harvesting sites. The Department was requested to provide a copy of these notifications to this Office for the purpose of my review.
27. On 26 May 2025, the Investigator had a follow-up telephone call with the Department and reiterated this Office’s requirement to have sight of the original notifications concerned. Additionally, the Investigator proffered her view that potentially only five (5) of the 43 listed notifications fell within scope of the appellant’s request, i.e. notifications received between 01 February 2022 – 21 February 2022, and requested the Department to clarify the factual position regarding these records.
28. On 26 May 2025, the Department reverted as follows:
 - Firstly, it stated that its position had changed, i.e. that the Department is no longer relying on any exemptions to withhold information regarding the Active Site Lists. It stated: “With the passing of time from the date that this appeal was lodged with the



OCEI, [the Department has] changed [its] position on providing this information and ... is regularly providing this information to this requester in his monthly requests.”

- Secondly, in respect of the Investigator’s enquiry regarding the actual notifications received by the Department from Coillte, it stated: “The list provided to the Department from Coillte is in the format of an excel worksheet. The AIE unit filter it to extract the dates that have been requested and create a record of the requested information for the requester i.e. provide him with a list of Active Harvesting Sites.”

29. On 27 May 2025, the Investigator wrote to the appellant to ascertain his current position regarding this appeal and provided the above summary of the Department’s current position for comment. That same day the appellant responded, welcoming the Department’s change in position and the explanation regarding the format of the information. He also stated: “Whilst I maintain that my request was for a copy of the notification received from Coillte, provided that I can be assured that the pertinent information is the exactly the same, I am satisfied that the information provided is sufficient.”
30. On 27 May 2025, the Investigator updated the Department on the appellant’s position and again requested clarification regarding the availability of the actual notifications received by the Department from Coillte. The Investigator stated: “Without sight of the actual notifications, or at least a sample of same, I cannot see how the above assurance can be provided to the appellant or indeed to the Commissioner for the purpose of this review.”
31. On 28 May 2025, the Department provided a recent example of the weekly notification email, including excel sheet attachment, that is received by it from Coillte. It added: “As you can see, the email is simply a conduit to send on the excel sheet which notify us of the active sites. We then filter it to provide the requested details to the requester.”
32. Following examination of the sample notification provided by the Department, the Investigator considered that the weekly excel sheet notified to the Department was different and more expansive than the summary list provided to the appellant on 15 July 2024. The excel sheet in the sample notification contained additional information including additional licence and site reference information, forester information and harvest unit commencement dates. The Investigator was of the view, which I agree with, that all pertinent information was not being provided to the appellant.
33. On 10 June 2025, the Investigator notified the Department of her view, based on the sample notification provided, that the relevant cover emails together with the entirety of the excel sheets provided by Coillte, are within scope of the appellant’s request. On this basis, the Department was again asked to provide this Office with a copy of the weekly notifications received by it, which fall within scope of the request.



34. On 13 June 2025, the Department official reverted, disputing the Investigator’s interpretation of the matter, stating:

“I contend that the information provided to the appellant is the Active Harvesting Sites notified to [the Department] by Coillte and therefore IS the pertinent information.

If [the Department was] to seek the actual email that is sent each time from the Felling section and review it for redactions and then review the spreadsheet for possible redactions, it will add to the time in preparing the lengthy requests that we receive on a monthly basis from this requester. This may also incur a fee for preparing the record, redaction etc before release.”

35. On 16 June 2025, the Investigator confirmed that this Office required sight of the actual notifications received by the Department which fall within scope of this specific AIE request in order to consider whether release of the information sought was appropriate. The Department was also requested to confirm if it wished to apply any exemptions to release of any of the information contained in these records.
36. On 26 June 2025, the Department provided the main records to this Office, which consisted of six (6) email records received by the Department from Coillte on dates between 1 February 2022 and 21 February 2022. The Department made no further submissions and, at this time, has not relied on any exemptions to withhold any of the information contained within these records.
37. In the circumstances of this case, on 9 July 2025, I considered it appropriate to issue a draft of this decision to the parties prior to concluding matters. The appellant, the Department, and Coillte were each informed that it was open to them to make a further submission on foot of my draft decision, but that any such submission must be confined to an additional point of fact, an error of fact or an error of law.
38. On 6 August 2025, the Department responded noting one clarification concerning the content of excel sheet notifications provided to it by Coillte. It clarified that the “Harvest Unit Commencement Date” is the date on which the harvesting starts in a Harvest Unit. It also submitted that “A Harvest Unit can contain multiple sites that are licenced under separate licence numbers and have potentially different commencement dates.”
39. I have now completed my review under article 12(5) of the Regulations. In carrying out my review, I have had regard to all submissions made by the parties including all responses received to the draft decision. What follows does not comment or make findings on each and every argument advanced, but all relevant points have been considered. I have also examined the content of the records at issue. 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’).

Scope of the Review

The Information Requested

40. As evident in the above chronology of this appeal, there is a lack of clarity regarding the actual information that comes within the scope of this request, and which falls to be released under this request.
41. The precise information sought in the AIE request dated 21 February 2022 was for “All weekly notifications provided by Coillte to the Forest Service of [the Department] of Active Harvesting Sites in 2022.”
42. The Department contends that the record provided to the appellant on 15 July 2024 is the Active Harvesting Sites notified to the Department by Coillte and is the pertinent information which the appellant is seeking. I have reviewed this record, which is an excel sheet compiled by the Department titled “Coillte Active Site List 2022”. It contains 1,443 rows of data (licence numbers) and four (4) columns, titled as follows:
 - i. Column A – Licence
 - ii. Column B – Notification Date
 - iii. Column C – Property
 - iv. Column D – FL_Harvest_Type
43. There are 43 individual notification dates distinguishable between January to December 2022. As noted at para 27. above, this excel sheet indicates the existence of five (5) notifications within scope of the appellant’s request, i.e. notifications listed as received by the Department on 24 January 2022, 28 January 2022, 8 February 2022, 14 February 2022 and 21 February 2022 (relating to 174 of 1,443 licence numbers).
44. I have also now reviewed the main records provided to this Office on 26 June 2025, which consist of six (6) notifications received by the Department between 1 February 2022 and 21



February 2022. The records concerned are six (6) emails dated 21 & 28 January 2022 and 4, 11, 14 & 18 February 2022 and accompanying excel sheet attachments.

45. Having examined the actual notifications concerned, firstly I am satisfied that these notifications also relate to 174 individual licence numbers. To clarify, I note the following:
- The Notification Date of 24 January 2022 listed in the Department's summary relates to the notification received by email from Coillte on 21 January 2022.
 - The Notification Date of 8 February 2022 listed in the Department's summary relates to the notification received by email from Coillte on 4 February 2022.
 - The Notification Date of 14 February 2022 listed in the Department's summary relates to two (2) separate notifications received by email from Coillte on 11 and 14 February 2022.
 - The Notification Date of 21 February 2022 listed in the Department's summary relates to the notification received by email from Coillte on 18 February 2022.
46. I further note, that while the body of the cover emails, at least in these instances, may contain no substantive information; the accompanying excel sheets, contain up to sixteen (16) columns of information in most cases, titled as follows (in respect of each row or licence number):
- i. BAU
 - ii. HU_ID
 - iii. HU_Commencement_Date
 - iv. Property
 - v. County
 - vi. Harvesting_Forester
 - vii. Contact_Number
 - viii. Comments
 - ix. HU_Year
 - x. HU_Type
 - xi. FL_App_Ref_ID
 - xii. FL_Harv_Type
 - xiii. Date_FL_Submitted
 - xiv. FL_Status
 - xv. FL_Start
 - xvi. FL_End
47. The AIE regime derives, originally, from the Aarhus Convention, which places duties on public authorities in relation to providing access to environmental information. Under Article 4(1) of the Convention:

“Each Party shall ensure that, subject to the following paragraphs of this article, public authorities, in response to a request for environmental information, make such



information available to the public, within the framework of national legislation, including, where requested and subject to subparagraph (b) below, copies of the actual documentation containing or comprising such information:

- (a) Without an interest having to be stated;
 - (b) In the form requested unless:
 - (i) It is reasonable for the public authority to make it available in another form, in which case reasons shall be given for making it available in that form; or
 - (ii) The information is already publicly available in another form.”
- (Emphasis added)

48. The Aarhus Guide (p.80) states that:

“Further, under the Convention, public authorities must upon request provide copies of the actual documents containing the information, rather than summaries or excerpts prepared by the public authorities. This requirement goes together with subparagraph (b), requiring that information should be given in the form requested, subject to certain exceptions. The requirement that copies of actual documents should be provided ensures that members of the public are able to see the specific information requested in full, in the original language and in context. (Emphasis added)

49. Article 7(1) of the AIE Regulations provides that a public authority shall, notwithstanding any other statutory provision and subject only to these Regulations, make available to the applicant any environmental information, the subject of the request, held by, or for, the public authority. This provision transposes Article 3(1) of the AIE Directive, which in turn is based on Article 4(1) of the Aarhus Convention as outlined above.

50. Having reviewed the above information (described at para 41. - 45.), it would appear to me that the information provided to the appellant on 15 July 2024 does not satisfy this specific AIE request. In my view, a plain language interpretation of the appellant’s request, and in particular the term “notification”, should be taken to mean the actual communication between Coillte and the Department. I note that the [Cambridge Dictionary](#) defines “notification” as “the act of telling someone officially about something, or a document, etc. that does this”.

51. I acknowledge the appellant’s openness to accede to an informal resolution of this appeal, however, this standpoint was on the basis that “the pertinent information is exactly the same” as the information disclosed to him by the Department. In my view, this is unfortunately not the case. In reaching this position, I am mindful of my obligations under article 12(5) of the AIE Regulations, which involves “an independent and impartial reconsideration of the acts or omissions of the public authority concerned” in line with Article 6 of the AIE Directive.



52. For reasons unclear to me, the Department interpreted the appellant's request as requiring it to create a new record. Instead of considering the actual notification records for release under the AIE Regulations, which I believe, would have been the most obvious, efficient and sensible way of processing this specific request, it created a summary list of the dates on which the Department received a notification from Coillte concerning specific licence numbers. This is not the information that the appellant requested. Further, due to the approach adopted by the Department, there is unduly limited information released to the appellant, in respect of the content of the actual "notifications" received by it. The Department has effectively provided the appellant with some, but not all, of the information requested in a different form or manner to that which he requested. This was done without any reference to article 7(3)(a) of the AIE Regulations, or without any reasons being provided to the appellant. The Department also withheld the additional information from the appellant, without notifying him of the existence of this information or providing any basis in the AIE Regulations for doing so.
53. Coillte, too, appears to have considered the phrasing of the appellant's request somehow ambiguous, contending that it had not seen the environmental information which the Department based its original refusal on, even though the actual notifications clearly originated from Coillte.
54. I consider that the relevant information held by the Department, in terms of the request for environmental information subject to this appeal, is plainly the actual notifications received by the Department from Coillte on the above listed six (6) dates. It is this information therefore, that requires a determination on whether it should properly be released (i.e. that no exemption provision in article 8 or 9 of the AIE Regulations (subject to article 10) applies).
55. To be clear, the above is not intended as commentary or analysis on any arrangements currently in place between the parties, including the provision of regular monthly information. Such matters are irrelevant to this review, the scope of which is clearly limited to the AIE request dated 21 February 2022 and the information associated with that request.

Approach to this Review

56. My role under article 12(5) of the AIE Regulations is to review the internal review decision of the public authority, and to affirm, vary or annul the decision concerned. Where appropriate, I can direct release of the information sought.
57. It is clear from the comments of the Court of Appeal in *Redmond & Another v Commissioner for Environmental Information & Another* [\[2020\] IECA 83](#), at para 51, that the nature of a review by this Office is inquisitorial, rather than adversarial in nature. The extent of the inquiry is determined by this Office and not by the parties to the appeal. A review by me is considered to be *de novo*, which means that it is based on the circumstances and the law as they pertain at the time of the decision.



58. Given the significant elapsed period involved in this appeal, it was accepted by both the Department (on 15 July 2024) and Coillte (on 17 July 2024) that the harvesting sites concerned could no longer be considered ‘active’, such that neither party is objecting to release of the information relevant to this request at this time. However, it is my understanding that the appellant has made other requests under the AIE Regulations for similar information. Therefore, I have decided that it is appropriate to consider this appeal as if the sites were now “active”, i.e. whether the decision was correct at the time of the request. In my view, it is in the interests of all parties that this point is examined as it is likely to always be the case in this type of appeal that the sites will no longer be active by the time an appeal reaches this Office and can be determined.
59. It must be remembered that the purpose of the AIE Regulations and regime is to enable members of the public to have timely and easy access to environmental information – to know and understand what is happening in the environment around them and to assist those who want to participate in environmental decision-making to do so in an informed manner.
60. Under Article 4(2) of the Aarhus Convention:
- “The environmental information referred to in paragraph 1 above shall be made available as soon as possible and at the latest within one month after the request has been submitted, unless the volume and the complexity of the information justify an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.” (Emphasis added)
61. The Aarhus Guide (p.82) states that:
- “The Convention requires public authorities to make information available within a specific time limit. As a general rule, it requires public authorities to provide the information “as soon as possible”. It then sets a maximum time limit of one month, with certain circumstances allowing an extension of up to two months. The limits set in the Convention are maximum limits and the Convention requires Parties to respond to requests in a shorter time frame whenever possible.” (Emphasis added)
62. The Aarhus Guide specifically refers to “As soon as possible” as the “base standard”. Article 7(2) transposes Article 3(2) of the AIE Directive, which in turn is based on Article 4(2) of the Aarhus Convention as outlined above. Timely and easy access to environmental information is a fundamental principle of the AIE regime. Delays at any stage of the AIE request process, or inappropriate refusal to release information, jeopardise the ability of requesters to participate in environmental decision-making.
63. I therefore consider that in the particular circumstances of this appeal, the approach I have set out above is appropriate and in keeping with the aims of the Aarhus regime.



64. As outlined above, I consider the relevant information held by the Department, subject to this appeal, to be the actual notifications of Active Harvesting Sites (i.e. the cover email and excel sheet) received by the Department from Coillte on dates between 1 February 2022 and 21 February 2022. The records concerned are six (6) emails dated 21 & 28 January 2022 and 4, 11, 14 & 18 February 2022 and accompanying excel sheet attachments. Having examined these records, I am satisfied that the information contained therein falls within the scope of the appellant's request, being the notifications received by the Department from Coillte.
65. Having now considered the specific records withheld, it is the case that these records contain names and contact details (including mobile telephone numbers) of Department staff, Coillte staff, and Coillte contractors. To facilitate a speedier resolution to the substantive issues arising in this appeal, the appellant has confirmed to this Office that such information may be excluded from the scope of the review and therefore I will not consider this content further.
66. In light of all of the above points, the scope of this review is confined to whether there are grounds, under articles 8(a)(iii), 9(1)(a), or 9(1)(b) of the AIE Regulations, in refusing access to the information contained within the above notifications, at the time of the request, i.e. when the sites may be considered "active".

Position of the Appellant

67. The appellant made submissions to this Office on 6 May 2022.
68. The appellant referenced a response by the Minister for Agriculture, Food and the Marine dated 26 April 2022 to a further parliamentary question posed by Deputy Richard Boyd Barrett ([PQ 20825/22](#)), which specifically sought a copy of each of the weekly tables of active harvesting sites provided to the Department by Coillte in 2022. In his response, the Minister stated that:

"In the interest of commercial sensitivity of this information and specifically the security of valuable machinery and logs on harvesting sites I do not believe it is appropriate to publish the active list of Coillte's harvesting sites. I understand there have been many instances of log theft, diesel theft, machinery damage and parts stolen from active harvesting sites."
69. The appellant submitted that the weekly list of active harvesting sites is environmental information that should, in his opinion, be actively disseminated by both the Department and Coillte.
70. In relation to article 9(1)(b) of the AIE Regulations, the appellant submitted that the information requested is a list of sites identified as subject to active or ongoing works. He submitted that there is no suggestion that any of these sites is actively under investigation or



subject to any criminal or disciplinary enquiries, nor is there any suggestion that any of the works are subject to enforcement proceedings.

71. The appellant argued that matters of the course of justice must be actual, not speculative but that the Department's position is purely speculative; supported by the use of the word "may" in its internal review decision. The appellant submitted that the Department has not provided evidence of an adverse effect arising from the release of the information requested. He submitted that the information sought is at least one step removed from any enforcement proceedings in that the list is intended to inform the Department where works are ongoing in order that they can assess compliance; it is not a list of sites where there are likely breaches of licence conditions or the Forestry Act.
72. The appellant submitted that there is a legal requirement under [Section 17\(4\)\(a\) of the Forestry Act 2014](#) for a Site Notice (in accordance with [Section 4 of the Forestry Regulations 2017](#)) to be erected to inform the public that any tree-felling works which are being carried out are done so under licence. He argued that on this basis, the location of ongoing licenced tree felling activities must be made known to the public. The appellant submitted that there is a requirement under the legislation that the public is informed of active harvesting and that "any notion of somehow withholding information as to where active felling works are ongoing on Coillte sites is not consistent with this requirement".
73. The appellant noted that the Minister's response to PQ 20825/22 does not reference the course of justice; however, cites commercial sensitivity and security as the basis for not considering it appropriate to publish the list. The appellant submitted that the Minister provides no numbers or values for stolen items and no details or numbers of cases of theft that are under investigation (matters that would be relevant to the course of justice). He argued that the reasons given by the Minister that the list should not be published "would appear to be speculation based on hearsay".
74. The appellant submitted that matters of site security are an issue for Coillte (and other forest owners) to address and are not the basis for the refusal of environmental information under the AIE regulations. The appellant argued that the location of active harvesting sites is not commercially sensitive information. The appellant also submitted that those with the intent to steal or damage are not reliant on a published list for their targets, stating: "Since weekly lists have not been published but theft and damage are indicated to have already occurred would tend to support this view."
75. The appellant submitted that the Department's decision did not weigh the public interest served by disclosure against the interest served by refusal, as required by article 10(3) of the Regulations. He also submitted that article 10(5) did not appear to have been considered by the Department and contended that it is highly probable that information could have been separated out for release. He noted that his request is for copies of all weekly lists received by the Department in 2022 and argued that, "it is quite possible that sites that were active



harvesting sites at the turn of the year are now no longer active as works are complete – timber has been harvested, extracted and hauled from the site; machinery has moved on. Inspections may have even been carried out by [Department] officials with no issues identified.”

76. In correspondence with this Office on 9 July 2025, the appellant provided further context as to the nature of the information sought in the AIE request and its linkage to environmental protection.
77. The appellant submitted that information relating to active harvesting sites is relevant because any licence issued is subject to conditions that are intended to protect the environment.
78. The appellant submitted that licence conditions will often include details as to when works should be suspended due to heavy rainfall, etc. He stated that “Most forestry operations are carried out by professional contractors who will be working on the basis of an agreed tender with the forest owner / manager... [and] in such circumstances there is a commercial imperative for contractors to continue to work and this may lead them to work in circumstances that may not be consistent with the licence conditions.”
79. The appellant submitted that “[The Department] has a very low inspection rate of active harvesting sites (c. 2% for Coillte and less than 1% for Private Licences). This means that the level of Departmental oversight on compliance is limited.” He also stated that “Most pollution-related serious incidents resulting from forestry activity have been as a consequence of third-party reports rather than Departmental oversight” and that “The importance of public oversight cannot be overstated.”
80. The appellant submitted that some licences contain seasonal restrictions due to protected species. He also outlined that other licences may not contain restrictions, but that, for example, the public may be aware of nesting activity that could be compromised by such works. He submitted that the Department’s standard mitigation for Hen Harrier, where no seasonal restriction is in place, includes the possibility of works being suspended if a new nest site is detected.
81. The appellant submitted that, “knowing when works are ongoing allows the public to provide a level of oversight in the context of environmental protection... and that this sits squarely within the principles of the Aarhus Convention.”

Position of Third Party (Coillte)

82. In its submissions to this Office, Coillte stated that, “by way of explanation as to the nature of the information requested and the origin of the record identified by [the Department] as relevant to the Request, and the underlying rationale for Coillte providing a list of active



harvesting sites to [the Department], the provisions of the Forestry Act 2014 (the “Forestry Act”) should be considered”, and it proffered the following contextual information:

“One of the aims of the Forestry Act is to develop and promote forestry in a manner that maximises the economic, environmental and social value of forests within the principles of sustainable forest management. The Forestry Act also empowers the Minister for Agriculture, Food and the Marine to make regulations for the effective management of the forestry sector. The Minister is empowered to grant, vary, suspend and revoke felling licences. This is one of the ways in which the forestry sector is administered by the Minister. Under the Act the Minister has a number of functions to ensure the protection of the environment. Coupled with this, Part 6 of the Forestry Act gives the Minister the power to appoint authorised officers to enforce provisions of the Forestry Act and regulations made under the Act. Such authorised officers have a number of powers, which include entering, inspecting and examining lands, removing material, and so on, for the purpose of ensuring that the Forestry Act is being correctly implemented and the environment appropriately safeguarded. This is the way in which the Oireachtas has determined that forest lands should be regulated, and the environment protected.”

83. Coillte submitted that to ensure that the Department can carry out its role effectively under the Forestry Act, Coillte provides it with a list of Coillte’s active harvesting sites on a regular basis (usually weekly) and that the Department then uses the list to determine which, if any, of the listed sites will be visited by a forest service inspector.
84. Coillte submitted, with the above context in mind, that articles 8(a)(iii), 9(1)(a) and 9(1)(b) of the AIE Regulations provide grounds for refusal of release of the Active Sites List, as outlined below.
85. In relation to article 8(a)(iii) (protection of the environment), Coillte’s submissions may be summarised as follows:
 - (i) Coillte submitted that the Active Sites List is used by the Department to determine which, if any, of the listed sites will be visited by a forest service inspector. It submitted that, as part of the mechanism to ensure the effectiveness of the system of random inspections, once sites are selected by the Department, forest work managers are then provided with only a minimal amount of formal notice in advance of their particular sites being visited by a forest service inspector, should their particular site(s) be selected.
 - (ii) Coillte submitted that the reasons for minimal notice are:
 - (1) to ensure that the forest works manager is aware of the inspection and can make every effort to be on-site when the inspection occurs, and
 - (2) to maximise the effectiveness and integrity of such inspections, and, in turn, the protection of the environment. Coillte argued that, as the element of surprise is



therefore important, its view is that the identities of the weekly active harvesting sites should be kept confidential.

- (iii) Coillte submitted that, as a complementary measure, access to the weekly list of active sites is tightly restricted, even within Coillte, so as to maintain the element of random, virtually 'un-announced' inspections being conducted in order to maximise the effectiveness and integrity of such inspections, and, in turn, the protection of the environment. It submitted that, in addition, and with even greater force, the weekly list is not made available to the public more generally.
- (iv) Coillte submitted that it is important that the identities of the weekly harvesting sites be kept confidential to ensure that authorised officers can carry out their work with an element of surprise. It submitted: "Anything that could hamper the effective implementation of functions under the Forestry Act could hinder the achievement of the aims and objectives of those functions and would therefore - contrary to what the Oireachtas intended - have a prejudicial effect on the environment."

86. In relation to article 9(1)(a) (international relations, national defence or public security), specifically with regard to the "public security" limb of this exemption, Coillte's submissions may be summarised as follows:

- (i) Coillte submitted that the term "public security" is defined in [Regulation \(EU\) 2018/1807 of the European Parliament and of the Council of 14 November 2018](#) (Recital 19) as follows, and that this definition has previously been adopted by the Commissioner when examining article 9(1)(a): "The concept of 'public security', within the meaning of Article 52 TFEU and as interpreted by the Court of Justice, covers both the internal and external security of a Member State, as well as issues of public safety, in order, in particular, to facilitate the investigation, detection and prosecution of criminal offences. It presupposes the existence of a genuine and sufficiently serious threat affecting one of the fundamental interests of society, such as a threat to the functioning of institutions and essential public services and the survival of the population". (Emphasis added by Coillte)
- (ii) Coillte submitted that the Commissioner's decision in the matter of *Right to Know CLG and the Environmental Protection Agency* ([OCE-120518-X2W6N8](#)) provided the following guidance in respect of article 9(1)(a): "48. As indicated above, the wording of article 9(1)(a) of the AIE Regulations makes it clear that there must be some adverse effect on public security in order for the exception to apply. There must be a clear link between disclosure of the specific information that it has withheld and any adverse effect. The risk of public security being undermined must be reasonably foreseeable and not purely hypothetical. A mere assertion of an expectation of harm is not sufficient." (Emphasis added by Coillte)
- (iii) Coillte submitted that the disclosure of the Active Sites List, thereby identifying active sites, would foreseeably result in individuals, including but not limited to the appellant,



visiting, encroaching or intruding upon, or potentially disrupting, such sites which would pose various levels of health and safety risks to harvesting operators, inspectors on-site and to themselves, particularly because machines are on-site and active harvesting is taking place. Coillte submitted that it “can give examples of this happening on Active Sites with a member of the public entering on an Active Site for the purpose of taking photos and videos with the intention of providing such images to Coillte’s forest certification auditors, without context, to initiate complaints alleging breach of certification”. It submitted that “the risk to life cannot be overlooked in such a scenario”.

- (iv) Coillte submitted that forestry work is a high-risk activity due to the fact it takes place in difficult and sometimes complicated outdoor environments. It submitted that the work carried out on active sites often involves the use of large specialist machinery, which can only be operated by highly trained and appropriately qualified operatives and require large exclusions zones to protect other workers on site. Coillte submitted that, for this reason, it is essential that the work is planned, managed and coordinated so that it is safe for all workers involved and for other persons including members of the public, who may be affected by the work activity.
- (v) Coillte submitted that a Forestry Work Manager (FWM) takes charges of an active site in line with the Health & Safety Authority’s [Code of Practice for Managing Safety and Health in Forestry Operations](#) which requires that, during the planning and carrying out of forestry operations, a number of safety and health duties be fulfilled.
- (vi) Coillte submitted that only trained, competent, and authorised personnel are permitted to enter on active sites and that members of the public are not permitted on any active site at any time.
- (vii) Coillte submitted that by releasing Active Site Lists, incidents of unauthorised attendance on active sites will result and accordingly the risk to public security by way of risk to human life and health will be compromised. It submitted that the following list of hazards will foreseeably pose a real threat and that an incident of the nature described below is likely to occur:
 - (1) Terrain: Rough ground, wood debris and branches on the ground, silt traps, Uneven Terrain / Steep Slopes / Ravines / Rocks, Boulders, Scree / Pits / Soft Ground / Bog Holes / Overgrown Drains; Consequences: Slips, trips, fall. Minor to serious injury, drowning.
 - (2) Access by public or unauthorized personnel of active sites with chainsaw felling ongoing; Consequences: Serious/ fatal injury, laceration from chainsaw, crushing by falling trees.
 - (3) Machine movements, increased traffic; Consequences: Collision with operative or public, death/ serious injury, property damage.



- (4) Use of ropes, chains, slings, hooks, shackles, eyebolts, swivels, winches and pulley blocks; Consequences: rope or other equipment breakage leading to serious/ fatal injury.
 - (5) Timber stacks at roadsides (climbing on, timber rolling off or collapsing); Consequences: Serious/ fatal injury.
 - (6) Access by public or unauthorized personnel of active sites with machine felling ongoing; Consequences: Serious/ fatal injury, saw chain breakage causing fragments to fly off at very high velocity, serious injury by fallen trees.
 - (7) Working machines: harvesters, processors, forwarders; Consequences: Serious injury from being struck by machines or falling trees. Injury from swinging booms, chain-shot, flying debris, cables, moving machinery.
 - (8) Noise from Plant and Machinery; Consequences: Proneness to accidents, noise-induced hearing loss / deafness
 - (9) Fumes from Plant and Machinery; Consequences: Irritation to upper respiratory system – coughing, breathlessness, cancer
 - (10) Machinery Fuels, Lubricants and Supplies; Consequences: Burns, dermatitis after skin contact.
 - (11) Antisocial behaviour: Assault / threats, robbery, abuse from visitors leading to personal injury
 - (12) Security of the contractor and machines
 - (13) Security of timber/commercial value
- (viii) Coillte submitted that it seeks to rely on article 9(1)(a) without prejudice to its obligation (to include contractor obligation) to erect site notices in situ at active sites for felling operations. It submitted that that the obligation to erect site notices is provided under Regulation 4 of the [Forestry Regulations 2017](#) and is to “advise the public that [] tree felling is being carried out or timber extraction is ongoing.” Coillte argues that the purpose of this is not to notify the public at large that forestry operations are taking place at specific sites, but rather to inform members of the public who live in the vicinity or otherwise happen upon an active site that felling is taking place. Also, members of the public living in the vicinity may wish to seek further information in relation to felling activities, which they are entitled to do via the Department and via Coillte’s stakeholder consultation process.
- (ix) Coillte submitted that site notices inform people local to operations of the dangers that may present in their own locality or indeed a person(s) who may be recreationally using a Coillte forest, for example, walking trails, will be aware not to enter operational areas. It submitted that the danger of entering an active site cannot be understated and it argued that the Commissioner must consider same and the potential risk of injury to members of the public along with forest operatives which it considers could foreseeably result from publishing a list of Coillte’s active sites leading to members of the public entering without notice and without authority. It submitted that public safety is a genuine concern, with risks and dangers as described above. It argued that while the public are aware of active



sites through site notices etc., Coillte foresees a higher level of unplanned visits with an associated, unacceptable, level of heightened risk should active sites be more widely publicised / released under the AIE regime.

- (x) Coillte submitted that erecting site notices is one means by which Coillte actively disseminates information relating to harvesting activities; however, that Coillte's publication and dissemination of information can be summarised as follows:
- (1) Two rounds of public consultation are held during the drafting of Business Area Unit (BAU) Five Year Plans which are subsequently published on Coillte's website and contain details of our felling plans in every county for the plan period.
 - (2) A follow-up consultation takes place annually where registered stakeholders are notified of any changes to the felling plans detailed in the Five-Year Plans. This information is also publicly available on Coillte's website.
 - (3) BAU Consultation Meetings are held annually in each BAU. In advance of these meetings, advertisements are placed in regional papers, on Coillte's website and all registered stakeholders are notified of meeting locations and dates. These meetings are intended to provide an opportunity for stakeholders to engage with local management staff in relation to the operational plans of each BAU and to address any concerns they may have.
 - (4) During the felling licence application process, the proposed felling areas are published on the Department's Forestry Licence Viewer (FLV) and Coillte public map viewer to inform stakeholders who are interested / affected by planned operations.
 - (5) Also, pre commencement of operations, site notices are erected, which lets local stakeholders know about planned works. Contract staff also erect site signage during operations that notify forest users of operations and access restrictions for health and safety reasons.
 - (6) The felling licence application process is fully transparent, and all licence applications are published by the Department on the Forestry Licence Viewer (FLV) and are subject to public consultation. Further, the Department consult with other public bodies, to include local authorities, the National Parks & Wildlife Service (NPWS), Inland Fisheries Ireland, etc. during the application process and any submissions received by them are taken into account during the approval process and proactively addressed by way of the inclusion of specific licence conditions.
 - (7) Coillte's public map viewer provides information on a site-by-site basis of Coillte plans, including licence details (felling / establishment / roads).
 - (8) Coillte has a PR portal which is managed daily where stakeholders can contact us with any queries relating to our operations. These queries are assigned at all times to local management staff for their attention.
- (xi) Coillte submitted that, having considered the purpose of providing the Active Sites List to the Department together with the reality that forest service inspectors may then conduct inspections of any one or more of the sites concerned, Coillte is of the view that this



procedure should be permitted to take its course without undue interference by members of the public which may foreseeably give rise to adverse safety and security risks.

(xii) Coillte also submitted: “Controversies around the felling of trees are a relatively regular occurrence and have been reported on in the past. In addition, Coillte has direct experience of protests, threats of harm being made against and intimidation of contractors at felling sites.”

87. In relation to article 9(1)(b) (the course of justice), Coillte’s submissions may be summarised as follows:

- (i) Coillte submitted that the reference to the “course of justice” is not limited to the course of extant or nascent legal proceedings of a criminal or civil nature before the Courts but is wider in import. It submitted that, in particular, it is Coillte’s view that, “the specific reference to an adverse effect, for example, on “disciplinary inquiries” being ‘included’ shows (a) that the “justice” which is in course can include – to take one example - a disciplinary inquiry, or similar process, and also (b) that the category of included processes is not closed, and can plainly include forestry inspection and enforcement processes such as are conducted by [the Department].” Coillte submitted that the Minister’s Guidance also states that the grounds for refusal under article 9(1)(b) covers “information affecting enforcement proceedings...”
- (ii) Coillte submitted that the Department’s Forest service inspections, as described above, are in the nature of preliminary investigations within the meaning of the Minister’s Guidance. It submitted that enforcement proceedings may arise as a result of inspections carried out by the Department’s Forest service inspectors. Coillte submitted: “It is therefore important both that field inspections are effective, and that their integrity be preserved. [The Department] should not be disadvantaged in the discharge of its inspection function (and potentially enforcement function) under the Forestry Acts.”
- (iii) Coillte submitted that the Commissioner’s decision in the matter of *Mr F and Dept of Housing, Local Government and Heritage* ([OCE-149674-X6S4C4](#)) provided the following guidance in respect of article 9(1)(b): “17. The wording of article 9(1)(b) of the AIE Regulations makes it clear that there must be some adverse effect on the course of justice in order for the exception to apply. Accordingly, when relying on article 9(1)(b) the public authority must set out the reasons why it considers that disclosure of the information at issue could specifically and actually undermine the course of justice (see C-619/19 *Land Baden-Württemberg v DR*). The risk of the course of justice being undermined must be reasonably foreseeable and not purely hypothetical.”
- (iv) Coillte submitted that the active harvesting lists are communicated to the Department only, and are not shared more widely, even within Coillte itself. It argued that the important element of randomness and surprise would be lost otherwise, and this would



hamper the Department in carrying out its inspection and enforcement duties effectively. Coillte also submitted that “[Department] investigations on foot of active harvesting site list information and site visits are on-going, and therefore ‘live’, and were ongoing and live as at the date of the Request”.

- (v) Coillte submitted that if these lists were shared with members of the public, “it is reasonably foreseeable that members of the public, to include but not limited to the Appellant, would attend at the relevant active site locations and compromise, prejudice, interfere with, or otherwise sub-optimally become involved in, the inspection process in a manner which would have an undesirable impact on the process, and accordingly adversely affect the rights and obligations of either or both parties to this regulatory process”.
88. Coillte submitted that it had considered article 10 of the AIE Regulations. In terms of article 10(4) and 10(5), it submitted that it had considered whether redactions to the active site lists would be possible to avoid the potential adverse effects identified. However, “having regard to the nature of the records and the risk associated with their release”, Coillte submitted that it is necessary to refuse access to the entirety of the records / active site lists.
89. Coillte submitted that in accordance with articular 10(3) of the Regulations, it has considered and weighed the public interest served by disclosure against the interest served by refusal, as follows.
- (i) In favour of granting access: The public interest in members of the public having access, to the greatest extent possible, to environmental information to which they are entitled under the AIE Regulations, so that the aims and objectives of the Regulations, the underlying Directive and the Aarhus Convention might be furthered.
- (ii) In favour of refusing access:
- The public interest in ensuring the successful and due implementation of, and inspection and enforcement under, the Forestry Act; and
 - The public interest in facilitating the efficient and effective performance of Coillte forest work managers and Department forest service inspectors, and the integrity and due and fair conduct of the inspection and enforcement process.
 - The release of environmental information under the AIE Regulations is deemed to be release to the world at large, as the AIE Regulations place no restrictions on the subsequent uses to which the information may be put.
 - There is considerable information available to the public concerning forestry operations (as outlined at para 86(x) above).
 - Coillte is subject to regulation by the Department in relation to the information contained in the active site lists, and that regulation is underpinned, amongst other things, by environmental and sustainability/appropriate silvicultural principles. Coillte considers that, “while the aims of the AIE legislation include information-access and



informed participation in decision-making and so on, and while it is generally in the public interest to make available environmental information that will facilitate this, it is also the case that, particularly in a regulatory context where there are ongoing processes, and where the regulatory system is itself designed to protect the environment and to enforce environment-facing laws, there are significant countervailing public interest considerations that can serve to lead to the reasonable conclusion – as is [its] conclusion in this case - that the public interest in release, or release at this point, of the information sought would not serve the public interest as well as non-disclosure would.”

90. Coillte submitted that it is satisfied that the public interest would be best served by the refusal of the active site lists.
91. Coillte submitted that the active site lists give precise location details and for this reason the foreseeability of risk and harm to public security with reference to article 9(1)(a) of the AIE Regulations is of genuine concern along with the risk of adverse effect as outlined above under the grounds of refusal under articles 8(a)(iii) and 9(1)(b).
92. Coillte submitted that the information in this case can be contrasted with the information sought in the matter of *Mr T and ESB Networks DAC* ([OCE-103363-N4S3M2](#)) and *Mr T and Electricity Supply Board* ([OCE-103365-V1F3H9](#)) where the Commissioner assessed the information requested and stated (in both Decisions): “Further information on the location of infrastructure on ESBNDAC’s distribution network is also made available under its Dial before you Dig programme. Finally, having reviewed the information in question, I note that it consists of what I would consider to be a high level indication of the location of the line over a relatively significant distance and does not provide detailed information on the location of substations or other such infrastructure.”

Analysis and Findings

Article 7(3)(a) of the Regulations

93. Article 7(3)(a) of the AIE Regulations requires a public authority to provide information in the form or manner requested by an appellant unless the exceptions provided for in that article apply, i.e. unless it is established either:
 - (i) that the information requested by the appellant was already publicly available in an easily accessible form or manner; or
 - (ii) that the access provided by the Department was reasonable.
94. There is nothing before me to suggest that the information requested by the appellant is publicly available in an easily accessible form or manner such that article 7(3)(a)(i) of the



Regulations applies. In fact, the information before me suggests that the Active Site Lists are not made available to the public.

95. As I have set out above, what the Department has effectively done in this case is provide the appellant with some of the information requested, in a different form or manner to that which he requested. If the Department wished to treat this request in that way, it should have relied on article 7(3)(a)(ii), and it should have explained why access to the information sought in this particular form or manner could be considered reasonable. The manner in which the Department has dealt with the request has resulted in several categories of information being withheld from the appellant, including harvest unit commencement dates, which, in particular, I consider to be “pertinent” information in the context of considering information being made available when forestry operations are ongoing.
96. The reasonableness requirement in article 7(3)(a)(ii) must be interpreted teleologically in line with the purpose of the Directive (see *National Asset Management Agency v Commissioner for Environmental Information* [2015] IESC 51, paragraph 10). Articles 3(5) and 7 of the AIE Directive make it clear that arrangements must be in place to ensure the public are adequately supported in seeking access to information and that public authorities take steps to ensure that access can be effectively exercised.
97. I consider that reliance on article 7(3)(a) of the AIE Regulations, and the treatment of the request in this manner could only be considered reasonable if all of the withheld information is exempt under the AIE Regulations and therefore can be lawfully withheld from the appellant. I will consider the application of the exemptions below.

Exemptions under the AIE Regulations

98. Articles 8 and 9 of the AIE Regulations provide certain grounds for refusal of information. Both articles must be read alongside article 10 of the AIE Regulations. Article 10(1) provides that notwithstanding articles 8 and 9(1)(c) of the AIE Regulations, a request for environmental information shall not be refused where the request relates to information on emissions into the environment. Article 10(3) requires a public authority to consider each request on an individual basis and weigh the public interest served by disclosure against the interest served by refusal. Article 10(4) provides that the grounds for refusal of a request shall be interpreted on a restrictive basis having regard to the public interest served by disclosure. Article 10(5) provides that nothing in articles 8 or 9 shall authorise a public authority not to make available environmental information which, although held with information to which article 8 or 9 relates, may be separated from such information.
99. When relying on articles 8 or 9 of the AIE Regulations a public authority must demonstrate a clear link between disclosure of the specific information that it has withheld and any adverse effect. It must set out the reasons why it considers that the disclosure of the information at issue could specifically and actually undermine the interest protected by the exceptions



relied upon, as set out by the CJEU at paragraph 69 of *Land Baden-Wurttemberg v DR*, [Case C-619/19](#). This sets a high threshold as the risk must be reasonably foreseeable and not purely hypothetical. A mere assertion of an expectation of harm is not sufficient.

Article 8(a)(iii) of the AIE Regulations

100. Article 8(a)(iii) of the AIE Regulations provides that a public authority shall not make available environmental information in accordance with article 7 where disclosure of the information would adversely affect the protection of the environment to which that information relates. This provision seeks to transpose Article 4(2)(h) of the AIE Directive, which in turn is based on Article 4(4)(h) of the Aarhus Convention.
101. The Aarhus Guide notes that the equivalent provision in the Aarhus Convention allows public authorities “to protect certain sites, such as the breeding sites of rare species, from exploitation — even to the extent of keeping their location a secret. It exists primarily as a safeguard, allowing public authorities to take harm to the environment into consideration when making a decision whether or not to release information.”
102. Coillte considers that disclosure of active harvesting site lists, would, in its view, adversely affect the protection of the environment to which that information relates. It argues that publication of the list could hamper the Department in its inspection and enforcement activities which could undermine the effective operation of the Forestry Act 2014.
103. I understand that inspections are undertaken primarily to ensure adherence to the original licence conditions and mandatory measures, including those relating to the protection of the environment (e.g. the [Environmental Requirements for Afforestation](#)). I also acknowledge that it is arguable that a less effective inspection process by the Department would likely be harmful to the environment in overall terms. However, it is not clear that there is any direct link between the withheld information and the effectiveness of the inspection process. The information here involves notifications of active sites, some of which may be selected for inspection by the Department. There is no detail concerning the actual sites selected for inspection or any enforcement activity.
104. Even if such a link could be demonstrated, it is not clear that the sort of disruption envisaged would adversely affect the environment for the purposes of article 8(a)(iii). The exception is therefore not engaged.

Article 9(1)(a) of the AIE Regulations

105. Article 9(1)(a) of the AIE Regulations provides a discretionary ground for refusal of information by a public authority where disclosure of the information requested would adversely affect international relations, national defence, or public security. This provision



seeks to transpose Article 4(2)(b) of the AIE Directive, which in turn is based on Article 4(4)(b) of the Aarhus Convention.

106. The Minister's Guidance, in considering "International relations, national defence or public security" states: "Requests for environmental information affecting international relations or national defence may be refused; this would include any restricted information or documents received from other States or international organisations. Information damaging to public security may also be withheld, e.g. information about explosives or firearms storage or manufacture." (paragraph 12.2).
107. Coillte considers that the "public security" limb of this exception is relevant in this case. The term "public security" is not defined in the AIE Regulations or the AIE Directive. However, as noted by Coillte, this Office is cognisant of the definition of "public security" noted in Regulation (EU) 2018/1807 (Recital 19).
108. Coillte also notes that when relying on article 9(1)(a) of the AIE Regulations a public authority must demonstrate a clear link between disclosure of the specific information that it has withheld and any adverse effect. It acknowledges that it must set out the reasons why it considers that the disclosure of the information at issue could specifically and actually undermine public security as set out by the CJEU at paragraph 69 of *Land Baden-Wurtemberg v DR*, Case C-619/19. This clearly sets a high threshold as the risk must be reasonably foreseeable.
109. In its submissions to this Office, Coillte argues that disclosure of the Active Site Lists will result in incidents of unauthorised attendance on active sites and accordingly a risk to public security by way of risk to human life and health.
110. Coillte submits that disclosure "would foreseeably result in individuals, including but not limited to the appellant, visiting, encroaching or intruding upon, or potentially disrupting, such sites which would pose various levels of health and safety risks to harvesting operators, inspectors on-site and to themselves". Coillte provided a comprehensive list of hazards associated with active harvesting/ haulage site, as outlined at para 86.(vii) above. Coillte also provided links to a number of media articles "to demonstrate the real risks at active sites", consisting of:
 - A Canadian (British Columbia) Forest Safety '[Industry Safety Alert](#)' dated January 2024, concerning a chain shot incident from an operating processor.
 - A UK Health & Safety Executive news article '[East Sussex body fined as dog walkers struck by tree](#)' and a BBC news article '[Conservators fined after woman left with brain injury](#)' dated 14 August 2024, both concerning a tree felling accident in England which occurred on 25 January 2023 and resulted in a serious injury to a member of the public.
 - An Irish Times Article '[Forestry worker dies in accident](#)' dated 22 March 1996, concerning a fatal incident involving a forestry contract worker and a tree harvester at a Coillte site in Co. Limerick.



111. Aside from the above materials, I am in no doubt that all forestry operations involve high risk activities. Indeed, that is why the industry is subject to strict health & safety rules. In this regard, Coillte set out in its submissions details of the extensive health and safety duties required to be carried out by its Forestry Work Managers under the Code of Practice for Managing Safety and Health in Forestry Operations, during the planning and carrying out of forestry operations.
112. Although Coillte submits that it can provide examples of members of the public entering onto active sites which poses various levels of health and safety risks, it also clearly submits that “only trained, competent, and authorised personnel are permitted to enter on active sites and that members of the public are not permitted on any active site at any time”. As such, it appears to me that Coillte’s concerns actually relate to matters of private security as opposed to ‘public security’ within the meaning of article 9(1)(a).
113. Coillte also submits that controversies around the felling of trees are a relatively regular occurrence and have been reported on in the past and that it has direct experience of protests, threats of harm being made against and intimidation of contractors at felling sites. However, in my view this offers little explanation as to how such actions would, as suggested, increase. In my view, Coillte has failed to provide sufficient evidence to support an assertion that such criminality would occur on foot of the release of the information at issue such that public security would be undermined.
114. In reaching the above conclusions, I am cognisant of Coillte’s obligation to erect site notices a provided under Regulation 4 of the [Forestry Regulations 2017](#), that being the requirement “advise the public that [] tree felling is being carried out or timber extraction is ongoing”. While Coillte does acknowledge this obligation, it argues that the purpose of this provision “is not to notify the public at large that forestry operations are taking place at specific sites, but rather to inform members of the public who live in the vicinity or otherwise happen upon an active site that felling is taking place”. In my view, this is an overly restrictive interpretation of the Forestry Regulations. Indeed, while site notices may be physically erected signage on the land, I note that Coillte’s website contains comparable notices for recreational sites, which are open to anyone to view. (See: <https://www.coillte.ie/our-forests/explore/events-and-updates/>)
115. Coillte submits that it foresees “a higher level of unplanned visits to sites from members of the public, with an associated, unacceptable, level of heightened risk, should active sites be more widely publicised / released under the AIE regime”. However, I am not convinced that any such inference can reasonably be drawn. Even if it were the case that disclosure would result in an increased number of visitors to sites, I note that individuals would be restricted in accessing active sites and would be required to adhere to all safety signage, etc.
116. To successfully apply article 9(1)(a) a public authority must also show that disclosure “would” have an adverse effect - not that it could or might have such an effect. Having carefully



considered the withheld records in this case, the information which can be accessed via the Department FLV and Coillte public map viewer, information generally publicly available in the form of site notices and on Coillte's website regarding live occurrences of harvesting works, and bearing in mind the criteria set out by the Court of Justice at paragraph 69 of its decision in *Land Baden Württemberg*, I am not satisfied that a reasonably foreseeable risk of an adverse impact on public security has been established such that article 9(1)(a) might be said to apply to disclosure of the information.

117. To clarify, I do not accept that disclosure of the Active Site Lists, at any time, would adversely affect "international relations, national defence, or public security". Consequently, I do not consider the exception is engaged.

Article 9(1)(b) of the AIE Regulations

118. Article 9(1)(b) of the AIE Regulations provides a discretionary ground for refusal of information by a public authority where disclosure of the information requested would adversely affect the course of justice (including criminal inquiries and disciplinary inquiries). This provision seeks to transpose Article 4(2)(c) of the AIE Directive, which in turn is based on Article 4(4)(c) of the Aarhus Convention.

119. Article 4(2)(c) of the AIE Directive provides that Member States may provide for a request for environmental information to be refused if disclosure of the information would adversely affect the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature.

120. The Minister's Guidance, in considering "The Course of Justice" states: "Environmental information relating to anything which is the subject matter of any legal proceedings, or of any formal inquiry (whether past or present), or any preliminary investigation, may be refused. Examples would include information in connection with intended prosecution of offences by the Director of Public Prosecutions or by local or other public authorities; information affecting enforcement proceedings; material arising from public or disciplinary inquiries; and information relating to preliminary or other proceedings instituted by the European Commission" (paragraph 12.3).

121. The Department's internal review decision relied on article 9(1)(b) as, in its view, disclosure would adversely affect the course of justice "in that the ability of authorised officers to carry out their powers under the Forestry Act 2014 may well be impinged". The Department, in its original submissions to the Office reaffirmed this position. However, it later updated its position, and on 26 May 2025 the Department confirmed that it is no longer relying on any exemptions to withhold information regarding the Active Site Lists.

122. In its submissions to this Office regarding article 9(1)(b), Coillte argued that disclosure of the Active Site Lists would hamper the Department in carrying out its inspection and



enforcement duties effectively. However, on the contrary, I consider that active dissemination would further support the transparency aims outlined by Coillte at para 86.(x) above, by allowing for even greater opportunity for public participation. In this regard, I also note the following commentary from my previous decision in [OCE-127083-R3M](#) (Mr A and Department of Agriculture, Food and the Marine), at paragraph 22:

“By way of, perhaps an extreme but nonetheless possible, example, if Coillte supplied the Department with a list of active sites which omitted sites, that would impact the Department’s ability to ensure those sites were being managed in accordance with the conditions of the applicable licence. Publication of the active lists would mitigate that risk as interested members of the public might be able to point out discrepancies in the list or point to sites which they considered to be actively harvested which had not been included.”

123. Having reviewed the withheld records in this case, I am not satisfied that Coillte has demonstrated sufficiently that release of the information would cause a reasonably foreseeable risk to the ability of the Department to fulfil its statutory role under the Forestry Act 2014. The information contained in the Active Site List is high level and contains no specific information in relation to inspections or investigations. The refused information is simply part of an administrative process to efficiently inform selection of sites for inspection. There is no indication of which sites are selected from this list. In respect of Coillte’s contentions that if sites for inspection/investigation were identifiable (which they are not), that members of the public would attend and “compromise, prejudice, interfere with, or otherwise sub-optimally become involved in, the inspection process in a manner which would have an undesirable impact on the process”, I find this view to be wholly unsubstantiated. Moreover, the Department itself no longer considers that release of this information would have an adverse impact on its inspection processes or pose a reasonably foreseeable risk to its ability to fulfil its statutory functions relating to the forestry sector.
124. The purpose of the exemption under article 9(1)(b) is to prevent an adverse effect on the course of justice. I cannot see any means by which the nature of information in this case, would adversely affect the course of justice. Accordingly, I find that article 9(1)(b) does not apply.

Conclusion

125. In circumstances where I have found that none of the cited exemptions are engaged, I am not required to consider the public interest test.
126. In addition, as I have found that none of the withheld information is exempt under the AIE Regulations, it is therefore that the Department’s decision to provide the appellant with the information sought in a different form or manner (i.e. rather than providing him with the actual notifications received from Coillte), cannot be justified under article 7(3)(a)(ii).



127. I will note that the appellant has confirmed that he is happy to exclude any names, phone numbers or email addresses from the scope of his request. However, this does not require the Department to create a new record to provide to the appellant and can be achieved simply by applying certain redactions to the six (6) cover emails concerned and removing two columns from the accompanying excel sheet attachments.

Decision

128. Having carried out a review under article 12(5) of the AIE Regulations, I hereby annul the Department's decision and direct release of the information concerned.

129. I will also note that it is the firm view of this Office that where appropriate, environmental information should be actively disseminated to the public without the need for a request, where possible and appropriate. This is in line with article 7 of the AIE Directive, which states: "Member States shall take the necessary measures to ensure that public authorities organise the environmental information which is relevant to their functions, and which is held by or for them, with a view to its active and systematic dissemination to the public, in particular by means of computer telecommunication and/or electronic technology, where available." I consider that this is a case where it would appear to me that the information sought is appropriate for dissemination via the Department's Open Data Portal, and I would ask the Department to carefully consider this as an option going forward.

Appeal to the High Court

130. 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.

Ger Deering
Commissioner for Environmental Information
11 August 2025