NPWS
An tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra
National Parks and Wildlife Service

Application for Derogation

Under Regulation 54 & 54A of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended

Revision 2.0 – July 2025

- This form can be used by any individual or Company applying for a derogation under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011 ("the Regulations") **or** any individual applying on behalf of the Minister for Housing, Local Government and Heritage under Regulation 54(A) of the Regulations.

- Note this application form is not for Domestic Dwelling Derogations (bats within private homes) which can be found here > (3D Application Form)

- Please ensure that you answer questions fully in order to avoid delays and/or your application being rejected on the basis that it does not contain sufficient information and detail for the application to be considered further.

- Please read and familiarise yourself with the NPWS Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants

- Please read and familiarise yourself with the European Commission's Guidance document on the strict protection of animal species of Community interest under the Habitats Directive

- Please also note that the responses to these questions are supplementary to the documentation required for the NPWS to be in a position to consider your application. A complete application should include both the application form and an associated report. Failure to supply either will result in your application being returned and/or refused.

- In circumstances in which a derogation is given on foot of this application, the Applicant is responsible for ensuring compliance with the conditions of any such derogation, even though they may employ another person to act on their behalf. To carry out any activity without, or not in accordance with, a derogation granted under regulation 54 or 54A of the Regulations constitutes a criminal offence, subject to prosecution.

- If you experience any problems filling in this form, please contact the Wildlife Licensing Unit: reg54derogations@npws.gov.ie

- Please note – applications, associated reports and derogations will be published on the NPWS website and/or the Department's Open Data website.

- Where any applicant is applying for a derogation to carry out surveys, please ensure to list all qualified ecologists and trainees under their supervision. See section 1(c) of Part A.

Part A: The Applicant - Personal Details

These questions relate to the person responsible for any proposed works and who will be the **Applicant**.
If this application is being submitted on behalf of a third party, please also complete Part B below.

1. (a) Name of Applicant

Title (Mr/Mrs/Miss/Ms/Dr)	Forename(s)	Surname
Ms	Sheila	Foley
(b) Company Name, if applicable	Office of Public Worls	
(c) Address Line 1	State/Principal Architect's Office & Capital Works Delivery	
Address Line 2	1 GQ George's Quay	
Town	Dublin 2	
County	Dublin	
Eircode	D02 Y098	
(d) Contact number	[redacted]	
(e) Email address	[redacted]	
(f) Address where works are to be carried out if different from (b) above.		
Address Line 1	National Concert Hall Campus	
Address Line 2	Earlsfort Terrace	
Town	Dublin 2	
County	Dublin	
Eircode	D01 N527	

Details of Person Submitting Application on Behalf of Applicant/Derogation Holder

Information relating to the person (e.g. ecologist) responsible for submitting the application on behalf of the applicant should be entered below:

1. (b) Name of Person/Ecologist

Title (Mr/Mrs/Miss/Ms/Dr)	Forename(s)	Surname
Ms	Caitriona	Fenton
(b) Company Name	Scott Cawley Ltd.	
Address Line 1	71-73 Rock Road	
Address Line 2	College House, Rock Road	
Town	Blackrock	
County	Dublin	
Eircode	A94 F9X9	
(c) Contact number	[redacted]	
(d) Email address	[redacted]	

(e) Relationship to Applicant	Biodiversity Consultant to OPW for NCH Redevelopment (anatomy building demolition and pathology building refurbishment, removal and pruning of trees)

For Survey Derogations Only

1. (c) Please Indicate the Names to Appear on the Derogation Along with the Position Held e.g. Supervisor/Trainee

Forename(s)	Surname	Supervisor or Trainee
Caitriona	Fenton	Supervisor
Cathal	O'Brien	Supervisor
Colm	Clarke	Supervisor
Jamie	Dempsey	Supervisor
Gregor	Wood	Supervisor
Wayne	Daly	Supervisor
Jared	Bennett	Supervisor
Simon	O'Carroll	Supervisor
Patrick	Ellison	Supervisor
Cliona	O'Flaherty	Supervisor
Aebhin	Cawley	Supervisor
Aisling	Cronin	Supervisor
Andrew	Speer	Supervisor
Tim	Ryle	Supervisor

Part B: Species covered by the Derogation

1. **Species of Animal:** Please indicate which species is/are the subject of the application:

- Bat ☒
- Otter ☐
- Kerry Slug ☐
- Natterjack Toad ☐
- Dolphin ☐
- Whale ☐
- Turtle ☐
- Porpoise ☐

2. Please detail the exact species (scientific name): common pipistrelle (*Pipistrellus pipistrellus*), soprano pipistrelle (*Pipistrellus pygmaeus*), Leisler's bat (*Nyctalus leisleri)*

3. Please provide the maximum number of individuals affected* number unknown at present

4. Please provide the maximum number of breeding or resting sites affected* Potentially up to four trees and two buildings

5. Please provide the maximum number of eggs to be taken* Not applicable

6. Please provide the maximum number of eggs to be destroyed* Not applicable

*If no figures can be provided for the maximum number of individuals, breeding sites, resting places and eggs to be covered by the derogation please provide reasons why.

See Section 6 in the accompanying report – peak count of two bats emerging from one building, bat droppings found in another building

7. **Species of Plant:** Please indicate which species is/are the subject of the application:

- Killarney Fern ☐
- Slender Naiad ☐
- Marsh Saxifrage ☐

8. If you previously received a derogation for any species of animal or plant, please state derogation number and confirm that you have made a return to NPWS on the numbers actually affected by that derogation.

DER-BAT-2024-169 and DER-BAT-2025-20

9. **Proposed Dates for Activities:** Please indicate the timeframe that you propose to carry out the activities. Dates set by NPWS may differ from dates proposed here. *A derogation will only be issued with a start and end date within a calendar year.*

01/03/2026

Start Date: 31/12/2026
End Date:

Part C: Nature of the Derogation.

1. Please tick which prohibition(s) the application for a derogation relates to:

Regulation 51	
Deliberately capture or kill any specimen of the relevant species in the wild	☒
Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	☐
Deliberately take or destroy eggs of the relevant species in the wild	☐
Damage or destroy a breeding or resting place of such an animal, or	☒
Keep, transport, sell, exchange, offer for sale or offer for exchange any specimen of the relevant species taken in the wild, other than those taken legally as referred to in Article 12(2) of the Habitats Directive.	☐
Regulation 52	
Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	☐
Keep, transport, sell, exchange, offer for sale or offer for exchange any specimen of these species taken in the wild, other than those taken legally as referred to in Article 13(1)(b) of the Habitats Directive.	☐

Further information should be provided in the format set out in Part E: Template for Supporting Information

Part D: Derogation Tests

Note: The following <u>summary</u> information must be provided by the applicant in all cases, and will be used to determine if a derogation can be provided. Further information must be provided in the format set out in Part E: Template for Supporting Information

Test 1: Reason for the Derogation

1. Please tick which reason(s) below explains how this application qualifies under Regulation 54(2)(a-e) or Regulation 54A(2)(a-e) of the European Communities (Birds and Natural Habitats) Regulations: Please provide a summary of how the application meets the 3 conditions required to provide a derogation. Note that in all cases additional information must be provided (see Part E).

a.	In the interests of protecting wild flora and fauna and conserving natural habitats **(proceed to 2a)**	☐
b.	To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property **(proceed to 2b)**	☐
c.	In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment **(proceed to 2c)**	☒
d.	For the purpose of research and education, of re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including artificial propagation of plants **(proceed to 2d)**	☐

e.	To allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule **(proceed to 2e)**	☐

2a. In the interests of protecting wild flora and fauna and conserving natural habitats:

i) Please state the wild flora, fauna or habitats that require protection and /or conservation.

• common pipistrelle Pipistrellus pipistrellus

• soprano pipistrelle Pipistrellus pygmaeus

• Leisler's bat Nycatalus leislerii

ii) Please summarise how the interests of protection and conservation of the species/habitat concerned justify affecting another species under strict protection.

N/A

2b) To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property:

i) Please summarise the nature of the potential damage, why it is considered "serious" and how this outweighs the conservation interest of the species under strict protection.

N/A

2c) In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment:

i) Where the reason is for public health and public safety, summarise the evidence provided to support this reason (e.g. documentary evidence of the risk from a chartered structural engineer, tree surgeon, Garda Síochána, qualified health professional etc.)

Four trees will be either removed or pruned to facilitate the development. It should be noted that these works are consented. T25 will be removed to allow wheelchair users access the National Concert Hall via the new entrance at the Pathology building. Where T25 is located, there is a lack of space to adequately allow wheelchair users to navigate their way to the ramp on an even surface due to the uneven terrain at the base of the tree (broken concrete and hardstanding). The Universal Access Statement submitted with the planning application outlines how the development incorporates universal access design to ensure that buildings, public spaces and infrastructure can be used by the widest range of users.

T23 and T24 will be pruned and this will prevent obstruction to the safe installation of scaffolding. These works will be carried out in accordance with the recommendations of the Arboricultural Assessment and Method Statement for the site.

The demolition of the Anatomy building will create essential fire evacuation routes and universal access design from Hatch Street for increasing numbers of service users of the NCH, as set out in the Planning and Design report.

T30 will be removed to allow vehicular access to the main National Concert Hall entrance on Earlsfort Terrace.

ii) Where the reason is for "other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment", summarise the nature of the public interest and how this outweighs the conservation interest of the species under strict protection.

The works have been consented under planning applications DCC 4065/24 (National Concert Hall redevelopment) and DCC 4973/23 (Pathology building refurbishment). A derogation licence for bats was originally granted by NPWS prior to the granting of planning permission, and it was issued specifically to facilitate the works associated with the now-consented development. A renewal application is being sought to ensure continuity of compliance as the project progresses toward implementation. Updated bat surveys undertaken in support of the renewal confirm that there has been no significant change in the ecological baseline since the original licence was granted: the roost types, species present, activity levels and conservation status remain consistent with the conditions assessed during both the licensing and planning processes. Accordingly, the renewed licence continues to align directly with the consented development, does not introduce any new ecological constraints, and supports the delivery of the consented scheme as permitted.

2d) For the purpose of research and education, of re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including artificial propagation of plants:

i) Please summarise the objective(s) of the proposed activities making reference to those listed above and how the the purpose of such activities overrides the interests of strict protection of the species. [1]

N/A

2e) To allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule

i) Please clearly state the objective of the activity and verify that this reason is being chosen as the objective of the activity does not match reasons a-d listed above.

N/A

ii) Please summarise how the activity will result in the taking or keeping of limited numbers of specimens of the species, how it will be applied on a selective basis and to a limited extent, and how it will be done under strictly supervised conditions.

N/A

Test 2: Absence of Alternative solutions

2. Please summarise the alternative solutions that have been considered and why these solutions are deemed unsatisfactory. This must include the option of the "do-nothing" alternative and evidence should be objective and robust. Note that in all cases further information must be provided in the format set out in Part E: Template for Supporting Information.

Alternative Solution	Reasons for "Unsatisfactory"
Do-Nothing	This would involve retaining four trees in their current state and would prevent the construction of a ramp for wheelchair users to access a new entrance from Hatch Street . The retention of the Anatomy building would prevent the construction of safe access to the National Concert Hall buildings including lifts,

[1] Note that this reason may be appropriate for when research involves surveys that may cause disturbance of species under strict protection. But the sole purpose of the surveys should be for research and education or the other reasons listed above under 1d.

	emergency stairs, and a loading bay, from Hatch Street to the west. This would be unsatisfactory for safety reasons as detailed in the OPW Planning and Design report.
Refurbish the Anatomy building	As the building is flush to the Iveagh Garden Wall, there is a lack space to bring the building up to current standards for fire separation and evacuation design. This would be unsatisfactory for safety reasons.

* Please insert additional rows above if needed

Test 3: Impact of a Derogation on Conservation Status

3. Please summarise the possible impacts on the population of the species that is subject to this application, taking into account all the mitigation and/or compensation measures that are to be undertaken. Evidence that such mitigation has been successful elsewhere should be provided where relevant. Mitigation measures being relied upon must ensure that the derogation will not be detrimental to the maintenance of the populations of the species to which the Habitats Directive relates at a favourable conservation status in their natural range. Note that in all cases further information must be provided in the format set out in Part E: Template for Supporting Information.

The application relates to specific impacts to:

- Anatomy building - A roost of two bats (unknown species) from the roof, recorded in 2022
- Pathology building – droppings found in one location only in the roof spaces in early 2026
- Removal of T25 and T30 and pruning of T23 and T24 – though assessed as negligible suitability (NONE, according to best practice guidance), it is extremely difficult to determine the likely absence of potential roost features and it is assumed that trees could develop potential roost features i.e. during a storm and bats could use features at some stage

The strategy outlined in the supporting information report includes measures to avoid and minimise disturbance to bats, and the provision of alternative roosting sites during and after construction. Three bat boxes have previously been erected in the adjacent Iveagh gardens in November 2025 (as part of derogation licence mitigation strategy of the previously issued bat derogation licences (DER-BAT-2024-169 and DER-BAT-2025-20 (amended)). The roosts in Anatomy building, Pathology building and potential tree roosts in T23, T24, T25, and T30 are small in size, supporting at best singletons or a few individuals, and together account for a small proportion of the estimated local population. Though the species recorded in 2022 were not identified, a list of potential species have been inferred from foraging and commuting bat calls identified during roost surveys and nearby National Biodiversity Data Centre records. Information about the local population has been gathered from National biodiversity data centre records within 2km which found several records for common pipistrelle, soprano pipistrelle, and Leisler's bat. The lack of records from the dense urban nature of the landscape, which is suboptimal for most bats, except for those species more tolerant of disturbance and light pollution.
In terms of national conservation status (NPWS, 2019), soprano pipistrelle and common pipistrelle are classed as Least Concern, while Leisler's bat is classed as Near Threatened. For clarity, these are the Irish Red List statuses, not the global IUCN Assessments

Part E: Template for Supporting Information

This application form should provide a summary of the evidence that the applicant has provided. In all cases, it is necessary to provide separate supporting information so that the assessment of the application can be undertaken in a robust and comprehensive manner. Applicants should refer to guidance provided by the NPWS and the European Commission whilst preparing this application form and the supporting information.

It is essential that supporting information is prepared in a consistent manner using the template below so that NPWS officials assessing the application can locate the relevant evidence to determine if the three Tests can be met. Failure to provide sufficient evidence will result in the application being refused.

The structure of the Supporting Information should be as follows:

1) Table of Contents

2) Introduction
    a. Objective of the proposed works (for example, as part of construction of a national road, repair of roofing, undertaking surveys etc.)
    b. Name, qualifications and relevant experience of scientific staff, including trainees, (e.g. ecologist) involved in the preparation of the application and those responsible for carrying out the proposed activity.
    c. If this application is for the carrying out of surveys that may cause disturbance, qualifications of all involved must be provided and trainees must be clearly identified.

3) Background to proposed activity including location, ownership, type of and need for the proposed activity, planning history, policy context, zoning in relevant Development plan (or equivalent), etc.

4) Full details of proposed activity to be covered by the derogation (including a site plan). The site may be inspected by an NPWS representative, so the details given should clearly reflect the extent of the project. This information will be used to compare site conditions with the Method Statement.

5) Ecological Survey and site assessment (Not required for applications to carry out surveys)
    a. Pre-existing information on species at location and environs.
    b. Status of the species in the local/regional area (relevant to the consideration of the impact on the population at the relevant geographic scale (Test 3))
    c. Objective(s) of survey
    d. Description of Surveys Area
    e. Survey methodology (including evidence as to how the methodology represents best practice and is appropriate to the Objective). Methodology should include survey maps, details of timing, climate, equipment used and identify any uncertainties or difficulties encountered.
    f. Survey results including raw data, any processed or aggregated data, and negative results as appropriate. Photographs and maps must be provided where site-specific features are referred.
    g. Population size class assessment.

6) Evidence to support the Derogation Tests

    a. Test 1 - Reason for Derogation:
        i. There should be a clear explanation as to why a specific reason(s) has been selected in the application form.

ii. Applicants are advised to read the guidance published by the NPWS 'Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants" with specific reference to Section 3.1.

b. Test 2 - Absence of Alternative Solutions
   i. Applicants must list the alternatives to the proposed activity that have been considered, including the do-nothing alternatives in a clear and objective manner. A basic requirement is that these alternatives should be compared in terms of their impact on the species subject to strict protection. It should be clear to NPWS officials as to why the chosen approach has been selected.
   ii. Applicants are advised to read the guidance published by 'Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants" with specific reference to Section 3.2.

c. Test 3 - Impact of a derogation on Conservation Status
   i. Applicants should include details of the population at the appropriate geographic scale and an evaluation of how the proposed activity will affect the conservation status both before and after mitigation measures have been applied.
   ii. Full and detailed descriptions of proposed mitigation measures that are relevant to the potential impact on the target species. Evidence that such mitigation has been successful elsewhere should be provided, where available.
   iii. Applicants are advised to read the guidance published 'Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants" with specific reference to Section 3.3.

7) Monitoring the impacts of the derogations
   a. Applicants must include details of how they propose to verify whether the derogations have been implemented correctly and whether they achieved their objective, using scientifically based evidence, and, if necessary, how the applicant will take corrective measures where required.
   b. Applicants should provide details of proposed reports to be submitted to the NPWS including the results of monitoring.
   c. Applicants are advised to read the guidance published by the European Commission "Guidance document on the strict protection of animal species of Community interest under the Habitats Directive" with specific reference to Section 3.4.

Part F. Declaration

I declare that all of the foregoing particulars are, to the best of my knowledge and belief, true and correct. I understand that the deliberate killing, injuring, capturing or disturbing of protected species, or damage or destruction of their breeding sites or resting places or the deliberate taking or destroying of eggs is an offence without a derogation and that it is a legal requirement to comply with the conditions of any derogation I may be granted following this application. I understand that NPWS may visit to check compliance with a derogation.

Please note that under Regulation 5 of the European Communities (Birds and Natural Habitats) Regulations 2011-2021 an authorised officer may enter and inspect any land or premises for the purposes of performing any of their functions under these Regulations or for obtaining any information which they may require for such purposes.

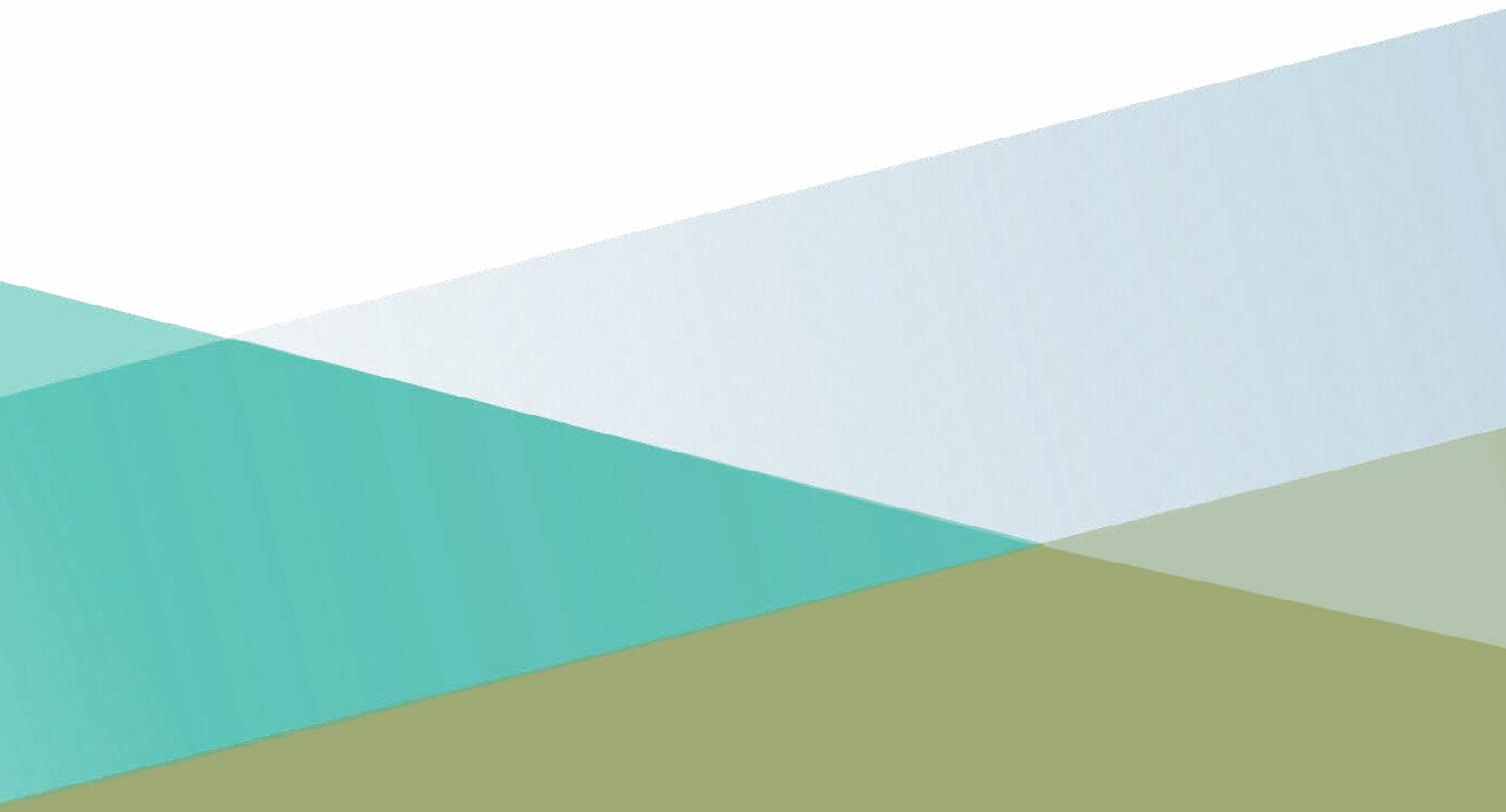
Signature of the Applicant **Date** 10/02/2026

Name in BLOCK LETTERS **CAITRIONA FENTON (on behalf of Sheila Foley, OPW)**

PRIVACY STATEMENT

See Privacy Statement at www.npws.ie/licences

npws.ie



Department of Housing, Local Government and Heritage

An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreachta
Department of Housing,
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