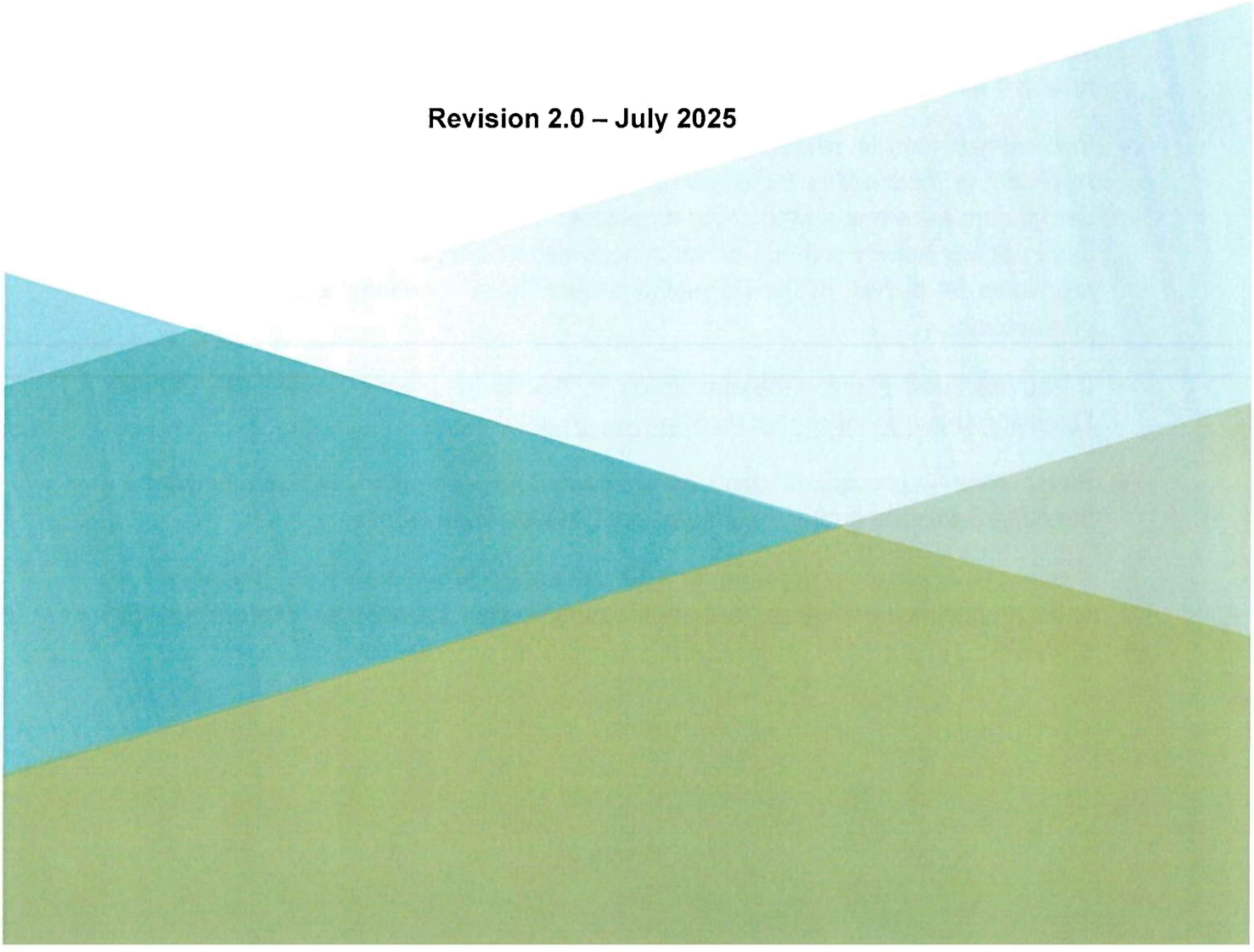
NPWS An tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra National Parks and Wildlife Service

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	Edele	O'Brien
(b) Company Name, if applicable	Kildare County Council	
(c) Address Line 1	Aras Chill Dara	
Address Line 2	Devoy Park	
Town	Naas	
County	Co. Kildare	
Eircode	W91 X77F	
(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	Duke Street	
Address Line 2		
Town	Athy	
County	Co. Kildare	
Eircode		

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
Dr	Robert	Rowlands
(b) Company Name	TetraTech	
Address Line 1	West Pier Business Campus	
Address Line 2		
Town	Dun Laoghaire	
County	Dublin	
Eircode	A96N6T7	
(c) Contact number	[redacted]	
(d) Email address	[redacted]	
(e) Relationship to Applicant	Consultant	

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
Robert	Rowlands	Supervisor
Miles	Newman	Supervisor
Julie	Larkin	Supervisor
Colin	Keane	Supervisor
Conor	Maloney	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): *Pipistrellus sp.*

3. Please provide the maximum number of individuals affected* 5

4. Please provide the maximum number of breeding or resting sites affected* Multiple roosting sites for single/small number of bats within the wall structure. No consistently used roosting locations as potential roosting locations varied from survey to survey. No breeding sites identified

5. Please provide the maximum number of eggs to be taken* NA

6. Please provide the maximum number of eggs to be destroyed* NA

*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.

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.

Derogation licenses held by members of the Tetra Tech (RPS) ecology team:
Otter and badger
DER- OTTER -2025-09: 01/01/2025 – 31/12/2025
DER – OTTER – 2020 – 59; 7/8/2020-31/05/2021
Licence No. 061/2018 Amended 2 – Sections 9 and 22 (6)(c) (expired 31 August 2018).
Permission: 326/2018 Amended 2 – Section 42 (expired 31 August 2018).
'Letter on non-opposition' with regards to Badger Sett exclusion and closure setts for consented landfill remediation at Kerdiffstown, Co. Kildare (WLU letter dated 23/11/2020)
'Letter on non-opposition' with regards to Badger Sett exclusion and closure setts for

consented landfill remediation at Kerdiffstown, Co. Kildare (WLU letter dated 26/07/2019)
'Letter on non-opposition' with regards to Badger Sett exclusion and closure setts for consented landfill remediation at Kerdiffstown, Co. Kildare (WLU letter dated 26/07/2019)
'Letter on non-opposition' with regards to Badger Sett exclusion of 6 entrances for consented Data Centre in Clonee, Co. Meath (WLU letter dated 21/08/2018)
'Letter on non-opposition' with regards to Otter holt/Badger Sett exclusion of 4 entrances for consented M7 road scheme (Sallins bypass), Co. Kildare (WLU letter dated 2018)
'Letter on non-opposition' with regards to Otter holt/Badger Sett exclusion of 3 entrances for consented M7 road scheme (Sallins link road), Co. Kildare (WLU letter dated 2018).

Other (photography and filming in relation to monitoring)

Licence No. 031/2025 (Sections 9 and 23 (6) (b)) - Licence to photograph /Film Wild Animals. Expires 31/12/2025
Licence No. 005/2024 (Sections 9 and 23 (6) (b)) - Licence to photograph /Film Wild Animals. Expires 31/12/2024
Licence No. 137 /2023 (Sections 9 and 23 (6) (b)) - Licence to photograph /Film Wild Animals. Expires. Expired 31/12/2023
Licence No. 185/2022 (Section 9 and 23 (6) (B) – Licence to photograph /Film Wild Animals) – Marine Species. Expires 31/12/2022
Licence No. 69/2021 (Section 9 and 23 (6) (B) – Licence to photograph /Film Wild Animals). Expired 31/12/2021
Licence No. 01/2020 (Section 9 and 23 (6) (B) – Licence to photograph /Film Wild Animals). Expired 31/12/2020
Licence 55/2019 (Section 9 and 23 (6) (B) – Licence to photograph /Film Wild Animals. (Badger and Otter). Expired 31st December 2019.

Bats

DER/BAT 2026-203 (survey licence); 13/05/2026-31/12/2026
DER/BAT 2026-207 (survey licence); 13/05/2026-31/12/2026
DER/BAT 2026-210 (survey licence); 13/05/2026-31/12/2026
DER/BAT 2026-215 (survey licence); 13/05/2026-31/12/2026
DER/BAT 2026-216 (survey licence); 13/05/2026-31/12/2026
DER/BAT 2025-297 (survey licence); 14/01/2025-31/12/2025
DER/BAT 2024-019 (survey licence) 10/01/2024-31/12/2024;
DER/BAT 2023-116 (survey licence); (Amended 18/01/2024-31/12/2023:
DER/BAT 2023-116 (survey licence);12/10/2023-31/12/2023;
DER-BAT-2020-44 (survey licence); 22/5/2020-22/05/2021
DER/BAT 2019-25 (survey licence); 28/03/2019-28/3/2020
DER/BAT 2017-144 (amended); 27/04/2017-10/11/2018

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.*

Start Date:	01 July 2026
End Date:	31 Dec 2026

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 summary 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 1a)**	☐
b.	To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property **(proceed to 1b)**	☐
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 1c)**	☒
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 1d)**	☐
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 1e)**	☐

1a. 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.

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

1b) 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.

1c) 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.)

Given the close proximity of the wall to Athy Marina, there is also a public health and safety aspect in the need to preserve this wall as a wall collapse poses a serious risk of damage to property (i.e. boats) and risk of injury (or worse) to human health (See Supporting Information submitted with this application for more detail).

The wall was inspected by Tetra Tech structural engineers in June 2024. It was found to have deteriorated along the riverside section with defects visible along most of the wall including cracks, isolated holes, mortar deterioration, and root growth through the wall, all of which are weakening the wall. The root growth has dislodged some stone blocks, and the visible damage caused by the root penetration is evidence of reduced structural stability.

The risk of the wall failure has the potential to cause flooding on the western riverbank around the AIB branch building and adjacent properties.

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 Proposed Works are needed to preserve a heritage feature within the centre of Athy town. This feature is at risk of collapse at some time in the future should the vegetation growth continue to penetrate and compromise the wall. There is also a risk to the River Barrow and the associated River Barrow and River Nore SAC via introduction of pollutants such as cements, mortar and sediments into the River Barrow. Additionally, any associated remedial works at this point (i.e. after a wall collapse) has the potential to cause further contamination of the river (See Supporting Information submitted with this application for more detail).

1d) 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]

1e) 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.

[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.

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.

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	If nothing is done, there is a risk of wall collapse with associated risk to human health, property and the environment. This will also affect the potential of the wall to support roosting bats since roosts and roosting opportunities will be lost
Wall buttressing on the western side	Leaves the eastern (riparian) side open to collapse. Riparian area not wide enough to place buttresses on.

* 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.

Vegetation removal from an existing stone wall as part of the Proposed Scheme has the potential to disturb roosting bats. Only one known roost with two individual bats (likely pipistrelles) has been confirmed to date along the existing wall. This roost will not be impacted as no vegetation is present adjacent to this roost. However, there is potential for additional roosts to be present within the existing wall in areas subject to vegetation removal. Emergence surveys were completed but could not confirm if bats were emerging from the vegetation / wall (See Supporting Information submitted with this application for more detail).

Considering the baseline information, the current conservation status of the likely bat species and the mitigation measures (presence of ECoW) in place, the granting of a derogation for the proposed works will not have any impact on the conservation status of any bat species.

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 Edele O'Brien. **Date** 27/05/'26.

Name in BLOCK LETTERS EDELE O'BRIEN

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,
Local Government and Heritage