NPWS

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
Mr	Eoin	Deffely
(b) Company Name, if applicable	Glenveagh Homes	
(c) Address Line 1	, Block C, Maynooth Business Campus,	
Address Line 2	Straffan Road	
Town	Maynooth	
County	Co Kildare	
Eircode	W23 F854	
(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	Kilnahue,	
Address Line 2		
Town	Gorey,	
County	Co. Wexford	
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
Mr	Bryan	Deegan
(b) Company Name	Altemar	
Address Line 1	50 Templecarrig Upper	
Address Line 2		
Town	Delgany	
County	Wicklow	
Eircode		
(c) Contact number	[redacted]	
(d) Email address	[redacted]	

(e) Relationship to Applicant	Project Ecologist

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

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 pygmaeus

3. Please provide the maximum number of individuals affected* 1

4. Please provide the maximum number of breeding or resting sites affected* 1 x bat roosts

5. Please provide the maximum number of eggs to be taken* N/A

6. Please provide the maximum number of eggs to be destroyed* N/A

*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.

Licence No. C 158/2021 translocation of frogs.

Licence No.: DER/BAT 2023 – 126- Removal of bats in Greenore Co. Co. Louth.

Licence No.: Der/Bat (151-2024)- Removal of bats from Central Mental Hospital.

Altemar have also been involved in the translocation of 7 badgers at the Glass Bottle site in Ringsend (Dr Chris Smal

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:	Planning Dependant Q2-2026 (approx.)
End Date:	Planning Dependant Q1-2028 (approx.)

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.

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

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.

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.)

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.

(c) In the interest of overriding public interest, including those of a social or economic nature.
The proposed works relate to the implementation of planning condition 3(a) of the permitted Large-Scale Residential Development at Kilnahue, Gorey, Co. Wexford, comprising 413 residential units (349 houses and 64 apartment/duplex/maisonette units), a creche, and all associated site development works, including road infrastructure, pedestrian and cyclist facilities, drainage upgrades, landscaping, amenity areas, and supporting utilities. The condition requires the widening of Kilnahue Lane to provide a minimum carriageway width of 6.0 m and the removal of vegetation along the site frontage to achieve the visibility standards necessary for the safe operation of the development and the proposed pedestrian crossing. The proposed works are considered to be in the interest of overriding public interest, including those of a social and economic nature. The permitted development will provide a substantial number of new residential units within Gorey, contributing to the delivery of much-needed housing at a time of significant housing demand within County Wexford and nationally. The development will support population growth, provide housing choice, and contribute to the sustainable expansion of Gorey in accordance with national, regional, and local planning policy objectives.
The road widening and visibility improvement works are necessary to facilitate the safe delivery and operation of the permitted development. The works will provide improved road safety for motorists, pedestrians, and cyclists through the provision of a widened carriageway, enhanced visibility at site accesses, and a safer pedestrian crossing environment. These improvements are required to satisfy Condition 3(a) of the planning permission and to achieve compliance with the visibility requirements set out in the Design Manual for Urban Roads and Streets (DMURS). To facilitate these works, the felling of one mature oak tree containing a confirmed bat roost is required. The tree is located within the area necessary to accommodate the required road widening and visibility splays and cannot be retained without compromising compliance with the planning condition and the associated road safety objectives. The removal of the roost is therefore unavoidable in order to implement the permitted development and associated infrastructure works. The development will also provide wider public benefits through the creation of residential accommodation, supporting infrastructure, public open space, landscaping, and active travel facilities, while generating employment during both the construction and operational phases. The scheme will contribute positively to the local economy and the sustainable development of Gorey.
All works will be undertaken in accordance with the requirements of a derogation licence and relevant wildlife legislation. Appropriate mitigation, compensation, and monitoring measures will be implemented as detailed in the accompanying ecological documentation, including the provision of replacement roosting opportunities, retention and enhancement of bat foraging habitat, a sensitive lighting strategy, and the creation of unlit native

parkland habitat to minimise impacts on bats and maintain the conservation status of the local bat population

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]

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.

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"

[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.

Do-Nothing	Under a “do nothing” scenario, the site would remain in its current condition and the proposed residential development and associated infrastructure would not be delivered. This would fail to address critical local and regional housing needs at a time of severe housing shortage and would represent an inefficient use of zoned and serviced urban land. Given the site’s residential zoning, it is likely that redevelopment would be pursued at a future date, with similar impacts on the existing structure and roost. The tree roost would continue to be used intermittently as an opportunistic night roost for a small quantity of bats.
Retention of the Roost Tree	The option of retaining the oak tree supporting the bat roost was considered. However, the tree is located within the footprint of the required road widening works and associated visibility splays. The northern boundary of Kilnahue Lane is constrained by existing residential properties, meaning that the required widening can only be accommodated within the development site to the south. In addition, DMURS requires unobstructed visibility splays of 2.4 m × 59 m in both directions at this location to ensure safe operation of the development access and pedestrian crossing. Retention of the tree would obstruct the required sightlines and prevent compliance with both the planning condition and applicable road safety standards. Consequently, retention of the roost tree is not considered feasible
Alternative road design or Site Layout	Alternative road layouts and boundary treatments were examined to determine whether the road widening and visibility requirements could be achieved while retaining the roost tree. However, the extent of the carriageway widening and visibility splays is dictated by Condition 3(a), the geometry of Kilnahue Lane, and the requirements of DMURS. Given the fixed nature of the existing northern road boundary and adjacent residential properties, there is insufficient flexibility to relocate the

	carriageway or adjust the visibility envelope to avoid the tree. Any reduction in the visibility splays or carriageway width would result in non-compliance with the planning condition and road safety requirements. Therefore, no alternative road design capable of retaining the tree was identified
Alternative road design or Site Layout	Alternative road layouts and boundary treatments were examined to determine whether the road widening and visibility requirements could be achieved while retaining the roost tree. However, the extent of the carriageway widening and visibility splays is dictated by Condition 3(a), the geometry of Kilnahue Lane, and the requirements of DMURS. Given the fixed nature of the existing northern road boundary and adjacent residential properties, there is insufficient flexibility to relocate the carriageway or adjust the visibility envelope to avoid the tree. Any reduction in the visibility splays or carriageway width would result in non-compliance with the planning condition and road safety requirements. Therefore, no alternative road design capable of retaining the tree was identified.
Conclusion	Having regard to the location of the confirmed bat roost within the footprint of the required road widening and visibility improvement works, the constraints imposed by the existing road corridor, and the requirements of Condition 3(a) and DMURS, no satisfactory alternative exists that would avoid impacts on the bat roost while still achieving the necessary road safety objectives and facilitating the implementation of the permitted development. The felling of the roost tree is therefore unavoidable. The proposed derogation, together with the mitigation, compensation, and monitoring measures outlined in the accompanying ecological documentation, will ensure that impacts on bats are minimised and that the favourable conservation status of the species is maintained at both the local and wider population level

* 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 proposed works required to facilitate Condition 3(a) of the permitted Large-Scale Residential Development at Kilnahue, Gorey, Co. Wexford, namely the road widening of Kilnahue Lane, associated visibility improvements, and the felling of one mature oak tree containing a confirmed bat roost, will not adversely affect the favourable conservation status of local bat populations. Bat surveys have confirmed the presence of a bat roost within the mature oak tree proposed for removal. The roost is considered to be of limited extent in the context of the wider site and is associated with foraging and commuting activity linked to surrounding linear landscape features, including hedgerows and treelines. The removal of this roost is required solely to facilitate essential road safety improvements, including carriageway widening and the provision of DMURS-compliant visibility splays (2.4 m × 59 m) at a constrained section of Kilnahue Lane. Suitable alternative roosting and foraging habitat will remain available within and adjacent to the site. The western boundary native hedgerow will be retained where practicable and will continue to function as an important commuting feature for bats. In addition, a native species-rich parkland area will be established within the development, designed to remain unlit and to provide dark foraging habitat. These retained and created habitats will ensure continued ecological connectivity across the site and the wider landscape. The loss of the roost will be compensated for through the provision of appropriately designed bat roosting features, to be installed under ecological supervision in suitable locations within the development. These measures will be incorporated alongside a sensitive lighting strategy designed to maintain dark corridors and reduce light spill into key foraging and commuting areas, thereby minimising disturbance to bat activity. The presence of Soprano Pipistrelle (Pipistrellus pygmaeus) on site is not unexpected, as this species is widespread and common throughout Ireland and is known to exploit a broad range of roosting and foraging habitats, including trees, buildings, parkland, and urban edge environments (NPWS, 2019). National populations are considered stable, and the species is not regarded as being under significant conservation threat. The accompanying ecological documentation sets out a suite of mitigation measures to avoid and minimise potential impacts, including pre-construction bat surveys, timing restrictions on vegetation clearance, ecological supervision during works, retention of key foraging corridors, and implementation of the site-wide sensitive lighting design. These measures will ensure that disturbance is minimised and that habitat functionality is maintained wherever practicable. Having regard to the small-scale nature of the roost, the availability of alternative roosting and foraging habitat, the ecological mitigation and enhancement measures proposed, and the widespread and adaptable nature of the species, it is concluded that the proposed development will not be detrimental to the maintenance of the local or wider bat population at a favourable conservation status.

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** 01/07/2026

Name in BLOCK LETTERS BRYAN DEEGAN

PRIVACY STATEMENT

See Privacy Statement at www.npws.ie/licences

npws.ie



Department of Housing, Local Government and Heritage