



**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](mailto: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
	Dermot	Custy
<b>(b)</b> Company Name, if applicable	Custy Construction Ltd.	
<b>(c)</b> Address Line 1	Block G Riverside	
Address Line 2	Quin Road Business Park,	
Town	Ennis	
County	Co Clare	
Eircode		
<b>(d)</b> Contact number	[REDACTED]	
<b>(e)</b> Email address	[REDACTED]	
<b>(f)</b> Address where works are to be carried out if different from (b) above.		
Address Line 1	Proposed Housing Development site at Ballymaley and Ballycorey, Gort Road, Ennis, Co Clare Planning Reference P24/60667	
Address Line 2		
Town		
County		
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.	Will	O'Connor
<b>(b)</b> Company Name	Ecofact	
Address Line 1	Tait Business Centre	
Address Line 2	Dominic Street	
Town	Limerick	
County		
Eircode		
<b>(c)</b> Contact number	[REDACTED]	



## 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):  | Rhinolophus hipposideros |

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

4. Please provide the maximum number of breeding or resting sites affected\*  | 1 |

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.

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:  | 3/2/26 |   
End Date:  | 31/12/26 |

## Part C: Nature of the Derogation.

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

<b>Regulation 51</b>	
Deliberately capture or kill any specimen of the relevant species in the wild	<input type="checkbox"/>
Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	<input type="checkbox"/>
Deliberately take or destroy eggs of the relevant species in the wild	<input type="checkbox"/>
Damage or destroy a breeding or resting place of such an animal, or	<input checked="" type="checkbox"/>
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.	<input type="checkbox"/>
<b>Regulation 52</b>	
Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	<input type="checkbox"/>
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.	<input type="checkbox"/>

**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).

<b>a.</b>	In the interests of protecting wild flora and fauna and conserving natural habitats <b>(proceed to 2a)</b>	<input type="checkbox"/>
<b>b.</b>	To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property <b>(proceed to 2b)</b>	<input type="checkbox"/>
<b>c.</b>	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 <b>(proceed to 2c)</b>	<input checked="" type="checkbox"/>
<b>d.</b>	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 <b>(proceed to 2d)</b>	<input type="checkbox"/>
<b>e.</b>	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 <b>(proceed to 2e)</b>	<input type="checkbox"/>

**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.

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

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**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.

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**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.)

*The proposed works form part of a planned housing development at Ballymaley and Ballycorey, Gort Road, Ennis, Co. Clare (Planning Ref. P24/60667), promoted by Custy Construction Ltd. to address the current housing demand within Ennis and the wider Clare region. The development is located within the serviced development boundary of Ennis, in an area zoned for residential use under the Clare County Development Plan 2023–2029.*

*The works necessitating this derogation relate to the removal of a small, structurally substandard agricultural shed currently used as a minor night roost by a small number of Lesser Horseshoe Bats. The building is in poor condition, with degraded roofing materials, open gaps, and evidence of livestock use, making it unsuitable for retention within a modern housing layout. Its removal is required both for public safety reasons—as it cannot be safely retained adjacent to proposed residential plots—and to facilitate the development of safe, compliant housing infrastructure.*

*A new purpose-built bat house will be constructed within the same landholding, in accordance with NPWS guidance and designed in consultation with a chartered ecologist (Dr. Will O'Connor, Ecofact Environmental Consultants Ltd.), ensuring full compensation for the existing roost.*

*Accordingly, the derogation is sought in the interests of public safety and for imperative reasons of overriding public interest associated with the provision of new housing that will deliver social, economic, and environmental benefits, consistent with the objectives of the National Planning Framework and Clare County Development Plan.*

- 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 development at Ballymaley and Ballycorey, Gort Road, Ennis, Co. Clare (Planning Ref. P24/60667) is being advanced for imperative reasons of overriding public interest of a social and economic nature, consistent with Regulation 54(2)(c) of the European Communities (Birds and Natural Habitats) Regulations 2011–2023.*

*The project will deliver new residential housing within the serviced development boundary of Ennis, addressing the acute housing need identified in the Clare County Development Plan 2023–2029 and the National Planning Framework (Project Ireland 2040). The development represents a sustainable, plan-led expansion of Ennis in a location already supported by existing transport, water, and wastewater infrastructure. By facilitating compact urban growth and efficient land use, the project will contribute to the economic vitality and social cohesion of the local community, while supporting local employment and investment during both the construction and operational phases.*

*From an environmental perspective, the development will deliver beneficial consequences of primary importance for the environment through the inclusion of a new, purpose-built bat house designed in consultation with Ecofact Environmental Consultants Ltd., and the implementation of enhanced landscaping, ecological buffers, and lighting controls. These measures will maintain or improve the favourable conservation status of the Lesser Horseshoe Bat (*Rhinolophus hipposideros*) within the local area, replacing a suboptimal roost with a high-quality, long-term structure and ensuring the continued ecological functionality of the site.*

*Accordingly, the works are justified on the grounds of imperative social and economic need, public benefit, and environmental enhancement, and fully meet the requirements of Regulation 54(2)(c) of the European Communities (Birds and Natural Habitats) Regulations 2011–2023.*

- 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. <sup>1</sup>

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- 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.

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- 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.

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## 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	<i>The “do nothing” option would not deliver the housing development needed to address the significant housing shortage in Ennis and would conflict with local and national planning policy objectives for compact, serviced, and sustainable urban growth. The existing agricultural shed is suboptimal for Lesser Horseshoe Bats and in active agricultural use. It lies beside a public road and one-off housing and offers only temporary and suboptimal night-roost conditions.</i>

<sup>1</sup> 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.

	<i>Without intervention or active management, the structure is at risk of further deterioration or removal through agricultural use, and it is possible that bats would cease using this roost in the near future. No long-term conservation benefit would therefore arise from a “do nothing” approach, while important social and economic benefits of the proposed housing project would be lost.</i>
Retain the existing farm building in situ within the development layout	<i>The existing shed lies directly within the footprint of proposed housing plots and essential infrastructure. Retention would sterilise serviced land, prevent safe construction access, and conflict with drainage and road alignments. The structure is in poor condition, poses public-safety concerns, and cannot be incorporated safely into a residential scheme.</i>
Exclude the building from the development boundary and fence it off as a retained roost	<i>Exclusion would create an isolated, unmanaged parcel of land within a residential estate, leading to long-term safety, maintenance, and lighting conflicts. It would not meet the land-use zoning objectives or allow delivery of the intended housing provision.</i>
Retain and retrofit the existing shed as a permanent bat roost	<i>The building is structurally substandard, with light intrusion through windows, corrugated roofing, and livestock contamination. It provides only a temporary night-roost environment and cannot offer the darkness, stability, or security required by Lesser Horseshoe Bats for day or maternity roosting.</i>
Relocate the housing layout elsewhere within the site to avoid the structure	<i>Retaining the unsafe shed during construction would present health-and-safety risks to personnel and would expose bats to significant disturbance. This option would not achieve compliance with site-safety obligations or the Habitats Regulations.</i>

\* 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.

*Evidence that the derogation will not be detrimental to the maintenance of the population of the species at favourable conservation status in its natural range*

*The proposed derogation will not be detrimental to the conservation status of the Lesser Horseshoe Bat (*Rhinolophus hipposideros*), either locally or within its wider natural range.*

*Surveys undertaken by Ecofact Environmental Consultants Ltd. during 2024 and 2025 confirmed that only a small number of individuals (<5 bats) are using the existing farm shed on the site as a night roost. No evidence of maternity, hibernation, or regular day roosting was recorded. The roost is therefore of low ecological significance, being used intermittently and opportunistically as part of a wider network of night roosts.*

*The species remains widespread and stable in County Clare, supported by numerous designated roosts in nearby Special Areas of Conservation (SACs), including Dromore Woods and Loughs SAC (000032) and Toonagh Estate SAC (002247), both of which support large, secure breeding colonies. The small number of bats using the subject site are almost certainly commuting from one or more of these established roosts.*

*To ensure no adverse effects on the conservation status of the species, a suite of mitigation and compensation measures will be implemented as part of the derogation licence, including:*

*Construction of a new purpose-built bat house within the same landholding, designed specifically for the Lesser Horseshoe Bat and located in a dark, sheltered position that will remain undisturbed.*

*Implementation of lighting design controls to maintain dark commuting corridors to and from the new roost.*

*Native planting and ecological buffers to reinforce connectivity and foraging habitat adjacent to the bat house.*

*Post-construction monitoring by a qualified ecologist to confirm usage of the new roost.*

*These measures will deliver a net ecological gain by replacing a suboptimal, temporary night roost with a secure, permanent structure suitable for both day and night roosting. The development will therefore maintain — and is likely to enhance — the availability of suitable roosting and foraging habitat for the species in the Ennis area.*

*Accordingly, the derogation will not be detrimental to the maintenance of the Lesser Horseshoe Bat at favourable conservation status in its natural range, satisfying the third test under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011–2023.*

## 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.

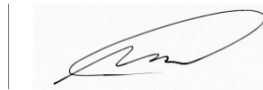
- ii. Applicants are advised to read the guidance published by the NPWS '[Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants](#)' with specific reference to Section 3.1.
  - b. Test 2 - Absence of Alternative Solutions
    - i. Applicants must list the 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** 29/01/26

On behalf of Dermot Custy

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**Name in BLOCK LETTERS**

Dermot Custy

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npws.ie

Department of Housing, Local Government and Heritage



An Roinn Títhíochta,  
Rialtais Áitiúil agus Oidhreachta  
Department of Housing,  
Local Government and Heritage