



NPWS

An tSeirbhís Páircenna
Náisiúnta agus Fíadhúla
National Parks and Wildlife
Service

**Derogation Number
DER-OTTER-2026-04**

**EUROPEAN COMMUNITIES (BIRDS AND NATURAL HABITATS) REGULATIONS, 2011
(S.I. No 477 of 2011)**

DEROGATION

Granted under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011, hereinafter referred to as “the Habitats Regulations”.

The Minister for Housing, Local Government & Heritage, in exercise of the powers conferred on him by Regulation 54 of the Habitats Regulations hereby grants to **Wesley Atkinson & Nominees of NPWS, Wicklow & North Wexford Regional Office, Kilafin, Annamoe, County Wicklow, A98 A0X5** a derogation. It is stated that this derogation is issued:

- A. In the interests of protecting wild flora and fauna and conserving natural habitats
- B. As there is no satisfactory alternative, and the action authorised by this derogation will not be detrimental to the maintenance of the population of **otters** referred to below at a favourable conservation status in their natural range.

This derogation authorises the following:

1. disturbance
2. Actions authorised within the derogation in respect of **otters**

Nominees: John Griffin, Myles Conway & Stephen Dunbar.

Nominees valid from May 1st 2026 Zeljko Blazevic, Paul Cullen & Angus Lee.



Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **NPWS Lands at Cooldross Lower & State Foreshore, Kilcoole, County Wicklow, for Wesley Atkinson & Nominees.**
2. All activities authorised by this derogation, and all equipment used in connection herewith, shall be carried out, constructed and maintained (as the case may be) so as to avoid unnecessary injury or distress to any species of **Otter**. Anything done other than in accordance with the terms of this derogation may constitute an offence
3. This derogation may be modified or revoked, for stated reasons, at any time.
4. The mitigation measures outlined in the accompanying application report, together with any changes or clarification agreed in correspondence between NPWS and the agent or applicant, are to be carried out. Strict adherence must be paid to all the proposed measures in the application.
5. The actions which this derogation authorise shall be completed between the **12th March – 1st August 2026, inclusive.**
6. If this derogation expires prior to works permitted under this derogation commencing, a new application must be sought in advance, including the provision of any updated data or reports.
7. Works are to comply with **NRA's 'Guidelines for the treatment of Otters prior to the construction of National Road Scheme.'**
8. This derogation shall be produced for inspection on a request being made on that behalf by a member of An Garda Síochána or an authorised NPWS officer appointed under Regulation 4 of the Habitats Regulations.
9. On completion of the activities which this derogation authorises, all recordings of otter affected will be made using the standardised data form provided below and must be submitted to the NPWS **within four weeks of the expiry date** of this derogation. Included with the below returns form, a report must be submitted to wildlife.reports@npws.gov.ie detailing results of works and success of mitigation. **Both documents must be submitted to constitute a derogation return.**



For the Minister for Housing, Local Government & Heritage

(an officer authorised by the Minister to sign on his behalf)

12 March 2026

Any query in relation to this derogation should be sent to reg54derogations@npws.gov.ie





Derogation Assessment

Name of Applicant: Wesley Atkinson & Nominees

Location/Name of Project: Cooldross Breeding Wader & Kilcoole Little Tern Projects

Tick the following prohibition as chosen on the application:

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

Test 1: A reason(s) listed in Regulation 54 (a)-(e) applies to the proposed activity

i. Tick which reason the applicant claims should be applied to the derogation

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



ii. Test 1: Conclusion

Please tick the following where it applies:

There is a valid reason(s) listed in Regulation 54 (a)-(e) which applies to the proposed activity:	Yes	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion:

The derogation is considered under Regulation 54(2)(a) to enable NPWS staff to capture, translocate and as a last resort dispatch Otter individuals. The derogation application form and associated supporting documentation provided by the applicant has been reviewed in full.

Coldross and Kilcoole are located within the Murrough SPA [Site code: 004186] and the special conservation interest species are Red-throated Diver, Greylag Goose, Light-bellied Brent Goose, Wigeon, Teal, Black-headed Gull, Herring Gull and Little Tern. The shingle ridge at Kilcoole is a traditional nesting area for Little Tern, and the site now supports one of the largest colonies in the country. Coldross has one of the highest breeding wader densities anywhere in Ireland or Britain. The successful breeding of 3 duck species of conservation concern plus little tern further adds to the sites significance.

Breeding success varies from year to year, largely due to predation by foxes, crows and other species including Otter (*Lutra lutra*). To date despite considerable effort, NPWS staff have not been able to exclude the offending otters. They seem to have mastered bypassing the predator proof fence. There is evidence that the otters have bitten through or displaced fencing wire. In 2025, there is definitive evidence of predation by Otters through night wardens observations. Finally, there was a 57% reduction in breeding pairs of Little Terns at the Kilcoole colony in 2025 from the previous 2024 figures.

The EAU is of the opinion that this application meets the criteria to satisfy reason 54(2)(a). Based on the above, the application can now proceed to Test 2.



Test 2: Absence of a satisfactory alternative

Please tick the following where it applies and add a comment below to support the recommendation:

The applicant has provided satisfactory evidence that alternative solutions have been considered and have given reasons why the proposed approach is the only satisfactory alternative:	Yes	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion (If you wish to add additional conditions please complete pg. 6):

Alternative solutions to the proposed approach have been considered by the applicant.

The projects currently employ extensive predator mitigation and control measures with 2.4km of permanent predator partially electrified fencing on the Wader Project. On 1st May circa 2km of electrified temporary poultry netting is installed surrounding both the main and satellite Little Tern Colony. Staff are currently controlling, foxes, corvids, mink and rats as required. On the Little Tern Colony, 24/7 wardening is ongoing from the beginning of May until the young have all fledged in early August.

Staff continue to look for breaches in the fencing and have fortified areas where there appears to be other sign of access or weaknesses, however this has not deterred Otter.

Based on the assessment of the application documentation, it is regarded that the applicant has considered the available alternative solutions and the proposed approach is the only satisfactory alternative. The EAU has concluded that the application has passed Test 2 and can proceed to Test 3.

Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.



Test 3: Impact of a derogation on conservation status of the species

Please tick the following where it applies and add a comment below to support the recommendation:

The derogation would NOT be detrimental to the maintenance of the populations of the species in question at a favourable conservation status in their natural range.	Yes	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion. (If you wish to add additional conditions please complete pg. 6)

The Eurasian Otter (*Lutra lutra*) in Ireland maintains a widespread, stable population with signs of recovery following previous declines, as indicated by the 2023-2024 survey¹. The Otter remains in favourable conservation status and is listed as Least Concern in the most recent Red Data List².

Regional management have made all reasonable efforts to prevent the otters from accessing the ground-nesting birds using non-lethal methods. Efforts to capture and translocate the animals in question are now justified and failing success with that approach lethal action would also be justified. Given the quality of the habitat and the potential for recolonisation from neighbouring territories, the removal of up to 8 otters would have no impact on the conservation status of the species in the area.

The EAU is of the opinion the proposed derogation would not be detrimental to the maintenance Otter populations at a favourable conservation status in their natural range.

If the answer above is Yes then the derogation may be granted, providing Tests 1 and 2 have also been met.

Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.

¹ <https://www.npws.ie/sites/default/files/publications/pdf/IWM161.pdf>

² <https://www.npws.ie/sites/default/files/publications/pdf/Red%20List%20No.%2012%20Mammals.pdf>



Derogation decision

The application for a derogation under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as amended, has been assessed by officials in the Department and the following decision has been made:

Tick box where appropriate:

There is no satisfactory alternative

and the derogation is not 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.

Therefore, a derogation may be granted to the applicant, since it is—

(a) in the interests of protecting wild fauna and flora and conserving natural habitats

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

(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,

(d) for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants, or

(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.

OR This application has been refused as one or more of the conditions set out above have not been met



The following conditions should be attached to the derogation:

- 1.
- 2.
- 3.
- 4.

[add additional conditions where required]

Signed: *Rauea Connolly*

Date: March 12, 2026

Position: Ecologist, Ecological Assessment Unit