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

Application for Derogation Under the European Communities

(Birds and Natural Habitats) Regulations 2011 – 2021

Prepared by the Department of Housing, Local Government and Heritage

npws.ie

- This form is to be used by any person applying for a derogation under Regulation 54 or by the Minister under Regulation 54(A)
- Please ensure that you answer questions fully in order to avoid delays
- If you experience any problems filling in this form, please contact the Wildlife Licensing Unit
- Please note – applications/reports received and derogations issued may be published on the NPWS website and/or the Department's Open Data website

Applications may be submitted by email: reg54derogations@npws.gov.ie

Part A. The Applicant: Personal Details

These questions relate to the person responsible for any proposed works and who will be the **named person on the derogation.** As the named person on the derogation you will be responsible for ensuring compliance with the derogation and its conditions, even though you may employ another person to act on your behalf.

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	Wesley	Atkinson (Licence to be issued to Wesley Atkinson & Nominees
(b) Address Line 1	NPWS Wicklow/Nth.Wexford Regional Office	
Address Line 2	Kilafin	
Town	Annamoe	
County	Wicklow	
Eircode	A98A0X5	
(c) Contact number	[redacted]	
(d) Email address	[redacted]	
(e) Address where works are to be carried out if different from (b) above.		
Address Line 1	NPWS lands Cooldross Lower & State Foreshore Co Wicklow	
Address Line 2	Click or tap here to enter text.	
Town	Kilcoole	
County	Co Wicklow	
Eircode	N/A	

Part B. Details of Person Submitting Application on Behalf of Applicant.

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

1. (a) Name of Person/Ecologist

Title (Mr/Mrs/Miss/Ms/Dr)	Forename(s)	Surname
N/A	N/A	N/A
(b) Company Name	N/A	
Address Line 1	N/A	
Address Line 2	N/A	
Town	N/A	
County	N/A	
Eircode	N/A	
(c) Contact number	N/A	
(d) Email address	N/A	
(e) Relationship to Applicant	N/A	

Part C. The Application

1. **Species of Animal:** Please indicate which species is affected by the proposed works:

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

2. Please detail the exact species (scientific name): *Otter Lutra Lutra*
Click or tap here to enter text.

3. Please provide the maximum number of individuals affected* UP TO 8

4. Please provide the maximum number of breeding or resting sites affected* Based on site knowledge and observation - None – it's a feeding area

5. Please provide the maximum number of eggs to be taken* N/A Click or tap here to enter text.

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.

   Click or tap here to enter text.

7. **Species of Plant:** Please indicate which species is affected by the proposed works:

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

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

   DER – OTTER – 2025 – 11 – Return made 23rd Feb 2026 Return 2 Otter (1 translocated and 1 killed)

9. **Proposed Dates for Works:** Please indicate the timeframe that you propose to carry out works. Dates set by NPWS may differ from dates proposed here.

Start Date:	Forthwith (ASAP)
End Date:	01/08/2025

10. Please tick which reason below explains How this Application Qualifies under Regulation 54(2)(A-E) of the European Communities (Birds and Natural Habitats) Regulations:

a.	In the interests of protecting wild flora and fauna 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 re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including artificial propagation of plants	☐
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	☐

11. Report Checklist: Please append a detailed report to support this application and ensure that it contains the following information:

11.1	Explanation as to why the derogation sought is the only available option for works and no suitable alternative exists as per Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations.	☒
11.2	Evidence that actions permitted by a 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 as is required under Section 54(2) of the European Communities (Birds and Natural Habitats) Regulations.	☒
11.3	Details of any mitigation measures planned for the species affected by the derogation at the location, along with evidence that such mitigation has been successful elsewhere.	☐
11.4	As much information as possible to allow a decision to be made on this application.	☒

Part D. 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 his or her functions under these Regulations or for obtaining any information which he or she may require for such purposes.

Signature of the Applicant: Click or tap here to enter text. **DATE:** 04/03/2026

Name in BLOCK LETTERS: Wesley Atkinson

PRIVACY STATEMENT

Please note that under Data Protection legislation Wildlife Licencing Unit staff may only discuss derogation applications with the applicant, and not with any third party. See Privacy Statement at www.npws.ie/licences

Cooldross Breeding Wader and Little Tern Nest protection Projects 2025 within SPA 4186 to protect QIs Little Tern (Sterna albifrons) [A195] & Wetland and Waterbirds [A999]

Supporting Information for Regulation 54 Application to meet the 3 tests as set out in Article 16(1) of the Habitats Directive. NPWS Wicklow/North Wexford Region.

Test 1 The applicant believes **this Application Qualifies under Regulation 54(2) (A-E) of the European Communities (Birds and Natural Habitats) Regulations:**

f.	In the interests of protecting wild flora and fauna and conserving natural habitats

This application is being made in order to protect ground nesting birds in within SPA 4186 and the relevant QIs for this application are **Little Tern (Sterna albifrons) [A195] and Wetland and Waterbirds [A999].**

A) Wetland and Waterbirds [A999].

This is the most important breeding site on the east coast of Ireland for breeding waders at this time.
From the 2025 results, 88(11/4/25) breeding pairs of waders on a 41ha site (c. one fifth of which is lagoon) would now make Cooldross 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, Gadwall where confirmed breeding in 2025. Fledgling rates in 2025, particularly for lapwing, were quite poor. Productivity for 2025 was calculated as 0.43 (19/44). This is below the average rate needed to sustain a viable population (productivity > 0.6–0.8) (MacDonald & Bolton, 2008; Barrett et al., 2014; Mason, 2019). This is likely the result of predation events coupled with weather conditions in 2025. The upward trend in breeding pairs for redshank is especially notable given its perilously low national population (c. 220bp) and that it had become essentially, functionally extinct as a breeding species on the east coast of Ireland. The recording of at least 2 lapwing pairs outside the site points to the potential of project to expand.

In relation to predation, Otter where not prevalent and causing issues on the site until late March/Early April 2025. This year they have been noticed much earlier within the fenced wader area (Camera Trap 3rd/4th March Otters x 2) Extensive flooding within the site may have exasperated the issue.

B) Little Tern (Sterna albifrons) [A195] The Kilcoole Little Tern nest protection project.

This is the largest breeding colony in Ireland for this species. In 2025, a peak of 121 breeding pairs of Little Terns was recorded at the Kilcoole colony. This is a 57% reduction on 2025 Figures. An additional eleven pairs nested in Cooldross (adjacent breeding wader project site) the largest number to date.
It was a poor breeding season at Kilcoole in 2025 and circumstantial evidence suggests a shortage

of suitable food is the likely cause of low numbers, poor breeding performance and other metrics such as high egg abandonment, delayed incubation periods and loss of small chicks.

Productivity was estimated at between 0.18 and 0.92 chicks fledged per pair, with an arithmetic mean of 0.55 chicks/pair which is likely an overestimate based on observations in the latter half of the season.

A total of 110 chicks were BTO-ringed, of which 21 were also colour-ringed. 38 adults were trapped, 4 of which were unringed and 34 already had rings and so had a known age and origin.

The main impacting factor to the breeding success of the QI species in question is ground and aerial predation of the nests and young and in the case of the Little Terns suspect lack of food resources.

<u>Test 2 – Is there a satisfactory alternative?</u>

Both these projects employ extensive predator mitigation and control measures with 2.4 km of permanent predator partially electrified fencing on the Wader Project (enclosing circa 32Ha) This project is up and running with the circa 100 Lapwing on site as of 3/3/26 displaying breeding behaviour observed on 23/4/25. The LT Project commences its set up stage on 1st May with the installation of circa 2km of electrified temporary poultry netting surrounding both the main and satellite Little Tern Colony. We are currently controlling, foxes, corvids, mink and rats as required. On the Little Tern Colony will also be 24/7 wardening from the beginning of May until the young have all fledged in early August.

Since 2nd March the wader site has a predator control operative on site during the hours of darkness on average 3 night per week weather permitting to control foxes. To date 1 fox has been shot and more recorded on the camera trap, none have breached the fences so . Corvid trapping commenced on the 1st March .

As of 3rd/4th March a pair of otters have been seen by the night warden (using a hi-spec thermal monocular) on the Breeding Wader project area inside the fence. They are currently remaining in the main channels feeding on fish/eels. However as per 2025 when Lapwing Breeding activity increases they will be out of the water hunting over the main breeding wader nesting areas, catching fledglings and raiding unhatched nests (Last year definitive evidence of predation by otters though night wardens observations).

To date despite considerable effort, to date we have not been able to exclude the offending otters. They seem to have mastered bypassing the predator proof fence. We continue to look for breaches and have fortified areas where there appears to be other sign of access or weaknesses in the fence. There is evidence that the otters have bitten

through or displaced wire covering outflow/inflow pies etc. which we have replaced or strengthening. The integrity and electrical efficacy of both fences is regularly checked by the staff concerned, and since the increased Otter activity the fences have been rechecked more frequently.
The observed otter predation /displacement/disturbance of waders is happening a month earlier than 2025 and about a month the peak of hatching and breeding activity for lapwing in particular.
The applicant believes they have made all reasonable efforts to prevent the otters from accessing the ground-nesting bird areas using non-lethal methods. We are alos looking at ungrading the bottom of the existing fence with smaller mesh in 2026 but have been thwarted todate with recent floods
Furthermore, we believe efforts to capture and translocate the animals in question are now justified and failing success with that approach lethal action would also be justified in order to protect the QIs in question

Test 3 - Conservation Status – Does the derogation risk being detrimental to the maintenance or restoration of the species at a favourable conservation status in its natural range?

The otter remains in favourable conservation status and is listed as Least Concern in the most recent Red Data List, unlike several of the species that these breeding bird projects are attempting to protect.

We believe we have made all reasonable efforts to prevent the otters from accessing the ground-nesting birds using non-lethal methods.

Given the quality of the habitat and the potential for recolonisation from neighbouring territories, we are satisfied that the removal of the offending otters would have no impact on the conservation status of the species in the area.

In relation to the methodology and control methods as follows;

1. Primary Option Live trap in Fox traps baited with fish. Trapped Animals will be released outside fenced area elsewhere in SPA/SAC

2. Secondary Option – If trapping fails to produce result then the lethal option is to Kill using Firearms - Rifle over .22-250 calibre or Shotgun using No 4 Shot or larger . Disposal - burial for killed animals or if in good condition – Education Material for NPWS Education Team.

Given the level of staff coverage on site 7 days a week, we are in a position to regularly check live traps etc.

Nominees are applicant, NPWS Regional Staff & NPWS contractors – Derogation to be issued in the name of Wesley Atkinson & Nominees.

Nominees to be added to licence;

Wesley Atkinson
John Griffin
Myles Conway
Stephen Dunbar
Zeljko Blazevic*
Paul Cullen*
Angus Lee*

*From 1st May onwards