



**Derogation Number
DER-OTTER-2026-07**

**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 **Charlie McCarthy** of **Cork County Council** a derogation. It is stated that this derogation is issued:

- A. 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. 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**



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Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Ardcahan Bridge, River Bandon, County Cork**, for **Charlie McCarthy**
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 application report (**Otter (Lutra lutra) derogation licence application for the Ardcahan Bridge, River Bandon, Co. Cork**), 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 **22nd May – 31st December 2026, inclusive**.
6. The works will be supervised by an ecologist: **Ross Macklin**.
7. Ensure that in advance of works a freshwater pearl mussel survey should be conducted to identify the location, density and distribution of freshwater pearl mussel upstream and downstream of the works in accordance with best practice and CEN standard methods (Stage 1 & Stage 2 Survey). A habitat condition assessment for Freshwater Pearl Mussel should also be carried out as part of this survey and recommendations and mitigation provided if improvements to habitat are needed. All ecological assessment reports and data from the works shall be forwarded to NPWS and the local Conservation Ranger
8. If this derogation addresses works that are subject of a planning application, no such works permitted under this derogation can occur until planning permission is granted.
9. 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.
10. Works are to comply with **NRA's 'Guidelines for the treatment of Otters prior to the construction of National Road Scheme.'**
11. 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.
12. The local **NPWS Conservation Ranger – Claire Deasy**, claire.deasy@npws.gov.ie, must be contacted prior to the commencement of any activity, and if otters are detected on site during the course of the work, under the terms of this derogation.
13. 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.**



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For the Minister for Housing, Local Government & Heritage

Fiona O' Mahony.

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

22 May 2026

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





Derogation Assessment

Name of Applicant: Charlie McCarthy

Location/Name of Project: Ardcahan Bridge, Dunmanaway, County Cork

Tick the following prohibition as chosen on the application:

(a) Deliberately capture or kill any specimen of the relevant species in the wild	<input type="checkbox"/>
(b) Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	<input checked="" 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 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 checked="" 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 application form and associated documentation provided by the applicant has been reviewed in full. The application relies on regulation 54(2)(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'* as the reason chosen for a derogation that they believe applies to the proposed activity.

In the detail provided, it is clear that the applicants are relying on the interests of public health and public safety aspect of Reason C. As outlined in the accompanying report titled "Otter derogation Licence", a derogation is required for proposed works at Ardchan Bridge, River Bandon, Co. Cork.

The objective of the works as highlighted on page 15 of the report involve the repair and rehabilitation of the bridge following a structural inspection. The report notes the bridge is "at risk of failure" due to corrosion and "urgent intervention is required" to restore the structure of the bridge to "full strength". The road is also at risk of flooding which presents a clear health and safety risk to the public and the remediation works to the bridge will help to alleviate this.

The applicant has provided evidence as to the nature and scale of the public health and public safety aspect for the proposed works and the proposed activity is necessary to achieve these overall objectives. Based on the above this application has passed Test 1 and 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):

The documentation submitted by the applicant has been reviewed, including the evidence for alternative solutions.

The purpose of the derogation is to allow the following activity to take place: [*repair and rehabilitation of Ardcahan Bridge*]

The specific situation that needs to be addressed is..... *repair and rehabilitation of the bridge following a structural inspection. The report notes the bridge is “at risk of failure” due to corrosion and “urgent intervention is required” to restore the structure of the bridge to “full strength”. The road is also at risk of flooding which presents a clear health and safety risk to the public and the remediation works to the bridge will help to alleviate this.*

The alternative solutions suggested by the applicant are:

1. “Do-Nothing” scenario- The ‘Do Nothing’ scenario is defined as the option involving no future expenditure

on the maintenance of Ardcahan Bridge and the abandonment of any existing bridge restoration and or maintenance practices. The implication is that the existing bridge condition would continue to deteriorate with risk of bridge constituents breaking down and entering the River Bandon (i.e. old mortar, steel and solids) risking water pollution and or exacerbating flood risk. This could impact qualifying interest freshwater freshwater pearl mussel (*Margaritifera Margaritifera*) or non-qualifying interest otter. The ‘Do Nothing’ approach fails to accord with national and local planning policy and environmental protection objectives.

2. Alternative 1 - *Due to high traffic volumes along the R587, it is not possible to do the close the bridge for an extended period of time and replace the corroded deck beams.*
3. Alternative 2 Due to environmental constraints a full bridge replacement also involves significant ecological risk.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 9 of the accompanying report *a number of alternative solutions, including the “do-nothing alternative” were examined by the applicant*

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 January 2026 baseline otter survey identified three suspected holts within a 150m buffer of Ardcahan Bridge. One of these has been confirmed as active. No breeding or resting areas will be directly disturbed due to the proposed works. However, temporary, indirect disturbance to otter breeding and resting areas during the construction phase cannot be ruled out. Numerous mitigation measures, including mitigation by design/ avoidance, focusing on the minimisation of disturbance to otter, ongoing survey work and supervision by a ECoW will be implemented. Ongoing access to the full river corridor, including the dry arches of the bridge, will be provided to minimise any impact on otter movements in the area.

On this basis, I am satisfied that the works will not be detrimental to the maintenance of the populations of the species in question 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.



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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



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The following conditions should be attached to the derogation:

1. Please ensure that in advance of works a freshwater pearl mussel survey should be conducted to identify the location, density and distribution of freshwater pearl mussel upstream and downstream of the works in accordance with best practice and CEN standard methods (Stage 1 & Stage 2 Survey). A habitat condition assessment for Freshwater Pearl Mussel should also be carried out as part of this survey and recommendations and mitigation provided if improvements to habitat are needed. All ecological assessment reports and data from the works shall be forwarded to NPWS and the local Conservation Ranger. The Conservation Ranger will be contacted in advance of works to give notice as to when they will be occurring

Signed: .

Date: May 22, 2026

Position: Ecologist