



**Derogation Number
DER-OTTER-2026-10**

**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 **Finbarr Wall - UCC of University College Cork, 3 Carrigside, College Rd, Co. Cork T12 YE33** 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 **North Mall Campus, North Mall, Cork City, Co. Cork T23 XA50, for Finbarr Wall - UCC.**
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 (**2026 European otter (Lutra lutra) survey for the proposed Tyndall development at Distillery Fields, North Mall Campus, Cork, to inform a section 54 derogation application**) 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 **29th May – 31st December 2026, inclusive.**
6. The works will be supervised by an ecologist: **Ross Macklin**
7. 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.
8. 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.
9. Works are to comply with **NRA's 'Guidelines for the treatment of Otters prior to the construction of National Road Scheme.'**
10. 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.
11. The local **NPWS Conservation Ranger – Jean Hamilton**, jean.hamilton@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.
12. 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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National Parks and Wildlife Service

For the Minister for Housing, Local Government & Heritage

Fiona O' Mahony.

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

29 May 2026

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





Derogation Assessment

Name of Applicant: Finbarr Wall - UCC

Location/Name of Project: North Mall Campus, North Mall, Cork City, Co. Cork T23 XA50

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 imperative reasons of overriding public interest, including those of a social or economic nature aspect of Reason C. As outlined on page three of the accompanying report titled “Part E: 2026 European otter survey”, a derogation is required to facilitate proposed works at Distillery Fields, North Mall Campus on the banks of the River Lee.

The objective of the works as outlined in the report involves the expansion of Tyndall National Institute noted on page 19 of the report as having “world-leading capabilities and expertise in cutting edge, state-of-the-art research”. The report provides several headings on pages 19 – 21 to further outline why the works rely on Reason C including Social and Economic Interest, improved academic performance, benefits for the wider economy and industry impact.

The report references the Governments Project 2040 and national development plan 2018 – 2027 to invest in business, enterprise and innovation and sets out the increase in staff and post-graduate students the expansion can facilitate as students progress through their studies. The works will generate construction activity, provide significant benefit into Cork as part of the national planning framework by driving a regional economy and continue Irelands reputation as a “global leader in technology and innovation in recent years”

The applicant has provided evidence as to the nature and scale of the public interest including those of a social or economic nature 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: disturbance of breeding sites of Otters to allow the development of the Tyndall Centre.

The specific situation that needs to be addressed is that two Otter holts have been identified in close proximity to the planned development which would be protected under Annex IV of the European Habitats Directive affording protection from disturbance and habitat destruction, two things that will occur with the construction of this development. Therefore a derogation licence is required in order to disturb individuals from the proposed construction site.

The alternative solutions suggested by the applicant are:

1. “Do-Nothing” scenario

Applicant Under a do-nothing scenario, no monitoring would take place which would be in contradiction with the condition compliance set out by the planning authority and the condition set out by NPWS. This is not a satisfactory alternative.

Assessment: Agreed.

2. Alternative 1

Applicant: Alternatively, monitoring would have to take place without a derogation licence, and therefore illegally. This is not a satisfactory alternative

Assessment: Agreed.

3. Alternative 2

Applicant: Alternatively, monitoring would have to take place without a derogation licence, and therefore illegally. This is not a satisfactory alternative

Assessment: Agreed.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 19 of the accompanying report. The applicant examined sufficient alternative solutions.



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Based on the assessment of the application documentation, it is regarded that the applicant has considered all available alternative solutions and at this time no other alternative solutions are apparent.

Having weighed the possible solutions to solve the applicant's problem against the effects of a derogation on the species concerned, it is 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)

Although a number of holts and couches were identified near the proposed development site during the recent otter survey, no otter breeding or resting sites will be directly disturbed as a result of the proposed Tyndall development works.

Holt H1, located along the distillery race channel on the north bank, was determined to be inactive during the most recent survey (approximately 88m from the proposed development) and secluded by an existing treeline. Otter holt no. H2 is located approximately 130m from the proposed development, on the other side of the river. The two couch sites (C1 & C2) are also located on the south bank of the River Lee, and are situated beyond the 20m buffer from the proposed works area (60m and 120m respectively).

Mitigation measures, including mitigation by design, focusing on the minimisation of disturbance to otter, is planned. This will include the provision of site-specific briefing from the Project Ecologist/ECOW for all construction personnel prior to works commencing. Additionally, ongoing monitoring throughout the construction period will be undertaken to ensure mitigation measures are effective and to allow for real-time adjustments as needed.

Providing these mitigation measures are implemented 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 |

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.



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.
- 2.
- 3.
- 4.

[add additional conditions where required]

Signed: .

Date: May 29, 2026

Position: Ecologist