



NPWS

An tSeirbhís Páirceanna
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National Parks and Wildlife Service

**Derogation Number
DER-OTTER-2026-12**

**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 **Seamus Neville of William Neville & Sons, Rockfield House, Spawell Road, Wexford Town, County Wexford** 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 **Carcur, Park, Wexford Town, County Wexford, for Seamus Neville.**
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 Derogation Licence Application Supporting Document Waterfront, Carcur, Park, Wexford**), 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 July – 31st December 2026, inclusive.**
6. The works will be supervised by an ecologist(s): **Deborah D’Arcy & Caoife D’Arcy**
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 District Conservation Officer – Sarah Stapleton**, sarah.stapleton@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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For the Minister for Housing, Local Government & Heritage

Fiona O' Mahony.

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

22 July 2026

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



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Derogation Assessment

Name of Applicant: Seamus Neville

Location/Name of Project: Carcur, Park, Wexford Town, County Wexford

Tick the following prohibition as chosen on the application:

(a) Deliberately capture or kill any specimen of the relevant species in the wild	☐
(b) Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	☒
(c) Deliberately take or destroy eggs of the relevant species in the wild	☐
(d) Damage or destroy a breeding or resting place of such an animal, or	☒
(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.	☐
(a) Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	☐
(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.	☐

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,	☐
(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, 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.	☐

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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	☒
	No	☐

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 six of the accompanying report titled “Carcur Park Otter Derogation”, a derogation is required to facilitate proposed works at a site located along the south bank of the River Slaney Estuary in the townland of Park, Wexford.

The objective of the works involves the construction of 413 residential units, two crèche facilities and associated works. The report further outlines that Wexford town has been identified as a “key town” under the Regional Spatial and Economic Strategy for the Southern Region.” The proposed development will assist in addressing regional and national housing demand and as the site is close to the town centre will support “compact, sustainable urban growth” within the town. The report notes the provision of “high-quality, serviced housing within existing urban envelopes” will provide clear social and economic benefits.

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

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National Parks and Wildlife Service**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	☒
	No	☐

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: Carcur Park Strategic Housing Development (ABP-308002-20)

The specific situation that needs to be addressed is a limited risk of disturbance to otter (*Lutra lutra*) and disturbance/damage to potential holts (non-breeding) and couches during construction activities. A component of the construction disturbance includes implementation of long-term disturbance mitigation measures including exclusion fencing.

The alternative solutions suggested by the applicant are:

1. “Do-Nothing” scenario:

The “Do-Nothing” scenario would prevent implementation of the permitted Strategic Housing Development (ABP-308002-20), which was granted planning permission by An Bord Pleanála having regard to national, regional and local housing and planning policy objectives. It would therefore fail to deliver the approved housing development and associated infrastructure on lands zoned for residential development within Wexford Town. Furthermore, it would prevent implementation of the shoreline protection measures required under Condition 20 of the planning permission, including the permanent shoreline wall, fencing and vegetated buffer designed to restrict public and dog access to sensitive shoreline habitats and provide long-term protection for otter habitat and wintering bird interests.

The “Do-Nothing” scenario fails to fulfil local housing development objectives and prevents implementation of mitigation measures which will alleviate anthropogenic disturbance to Qualifying Interest species including Otter by restricting access along the shoreline of the Slaney River Valley Special Area of Conservation and Wexford Slobs and Harbour Special Protection Area.

2. Alternative 1 - Alternative layouts and boundary design

Alternative layouts and boundary designs were examined during the EIA and AA process with reference to the conservation objectives for otter within the Slaney River Valley SAC (NPWS, 2011) which requires no significant decline in the extent of terrestrial habitat (for otter) mapped to include 10m terrestrial buffer identified as critical for otters.



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It is proposed that damage or destruction of the potential holts can be avoided, as minor adjustments to the drainage layout will enable holts to be retained in situ. However, in the event of unforeseen circumstances and given the proximity of the potential holts to construction, a precautionary approach is being adopted and a licence for disturbance of damage to potential holts identified along the shoreline is required if damage or destruction of a potential holt cannot be avoided.

The constraints identified and highlighted by chapter 6 (biodiversity) of the EIAR established limited parameters upon which potential development proposals could be formulated. Spatial constraints at this location include the presence of an EU designated Special Area of Conservation and Special Protection Area, as well as limitations related to local land use, land ownership and topography.

Proposed layout/boundary treatments include a combined fence/wall to exclude long term disturbance from otter habitat along the estuary shoreline, as well as the retention of a 10m vegetative buffer to protect habitat areas where otter activity has been recorded. The development proposal has indicated that the works will result in no net loss of otter habitat. The current proposed layout/boundary design is intended to protect the adjoining otter habitat areas from disturbance arising from the residential development.

The implementation of measures such as installation of the exclusion fencing/wall may result in temporary disturbance to otter habitat, but is intended to yield overall long term protection from disturbance. The purpose of the licence is to allow for the foregoing temporary construction-related disturbance to known couch/holt areas and as a precautionary measure due to the proximity of construction works (including drainage) to active holts.

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

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.

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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	☒
	No	☐

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 proposed development will be adjacent to otter habitats, with potential holts, couches and sprainting sites nearby. No breeding (natal) holts have been identified in the area.

The purpose of the derogation is to permit temporary works (vegetation clearance, berm construction/removal, installation of retaining wall and fence, drainage outfalls, other services, infilling of site, construction of a pond, and construction of roads) in proximity to known otter resting places, under strict ecological supervision.

The design of the development retains the 10m wide otter habitat along the banks of the Slaney estuary and provides for protection of this otter habitat from residential related pressures including preventing access to the shoreline by people and dogs by the provision of a wall and railing 2.1m high. The design of development seeks to minimize the effects on otters from known pressures.

A mitigation plan has been developed. The implementation of measures such as installation of the exclusion fencing/wall may result in temporary disturbance to otter habitat, but is intended to yield overall long term protection from disturbance.

The otter is widespread and common in Ireland and is currently in favourable conservation status. It occurs across the country from remote upland lakes and streams to coasts and estuaries. It is tolerant to some degree of disturbance as demonstrated, for example, by the presence of active populations in Cork and Dublin city centres.

Given the intention to retain the potential holt features, the temporary nature of the disturbance, the availability of confirmed holts and potential holts outside of the zone of influence and the retention of otter habitat as part of the design of the development, 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.



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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.
- 2.
- 3.
- 4.

[add additional conditions where required]

Signed: .

Date: July 22, 2026

Position: Ecologist