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An tSeirbhís Páirceanna
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National Parks and Wildlife Service

**Derogation Number
DER-OTTER-2026-15**

**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 **Frank Vaughan of Geaney Property Developments Limited, A2 Fota Point Enterprise Park, Carrigtwohill, County Cork, T45 Y973** 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 **Killacloyne, Tullagren, Carrigtwohill, County Cork, for Frank Vaughan.**
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 (**Carrigtwohill otter survey & derogation 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 **17th August to 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 Divisional Manager – Seamus Hassett**, seamus.hassett@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)

17 August 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: Frank Vaughan

Location/Name of Project: Killacloyne, Tullagreen, Carrigtwohill, Co. Cork

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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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 three of the accompanying report titled "Part E: 2026 European Otter Survey", a derogation is required to facilitate proposed works at Carrigtwohill, Co. Cork.

The objective of the works is the development of the site for a proposed business park which is located within the "Business and General Employment" zone under the county development plan." The report further outlines that the site is identified for business development with appropriate use as light industry listing several uses including small/medium manufacturing, wholesale and non-retail trading, warehousing and distribution among others. The proposed business park will bring social and economic benefits to the area through services and employment.

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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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. It should be stated in any correspondence that this derogation is being considered without prejudice to any comments the Department may make on the related planning application.

The purpose of the derogation is to allow the following activity to take place: Development of a Business Park on a green field site adjoining Great Island Channel SAC (1058) and pNHA.

The specific situation that needs to be addressed is there is a currently unoccupied otter holt within 150m (138m) of the development, this could become active during the construction and operational phase. The development will also lead to short-term, indirect disturbance to otter breeding and resting areas during the construction phase.

The alternative solutions suggested by the applicant are (excerpts from supporting report and application):

Do-Nothing

The subject site is proposed to be developed for a 'Business and General Employment' use to meet the requirements for the proper planning and sustainable development of the area. On this basis, the 'do nothing' option (i.e. the site remaining agricultural) would not deliver on an objective, which, in the opinion of the planning authority, is needed for Carrigtwohill.

Alternative Locations

There are no alternative sites available to the applicant, which could accommodate the subject development. Alternative sites in Carrigtwohill, which are in the ownership of the client, are either not zoned accordingly for the development of a business park or cannot facilitate the development of same as they have been already built on. It is noted that across Carrigtwohill, there are a number of sites which are zoned for 'Business and General Employment'. The development of a Business Park on these sites would be acceptable in principle. However, many of these sites are already developed and therefore do not have the necessary capacity to facilitate the development of a business park.

Alternative Design

Throughout the course of the project, the design of the scheme has been amended to give regard to ecological considerations. In total, there have been 17 iterations of the Site Layout to date. While not all amendments



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have resulted from ecology, the buffer zones have changed as the layout has developed, and increased planting has been incorporated into the scheme.

Site Layout Plan Rev 1 shows a buffer zone of less than 15m between the developable area (i.e. yard space / buildings etc.) and the northern boundary of the site, a buffer of less than 10m from badger sett and less than 150m from the otter sett. This iteration of the Site Layout Plan included landscape berms (with no planting) on the northern and southern boundaries.

Site Layout Plan Rev 2 shows a buffer of less than 15m between the developable area and the northern boundary of the site, a revised buffer of 20m between the badger sett and Unit 6 and a buffer of less than 150m from the otter sett and the developable area. This iteration of the layout removed the landscaped berms at the northern and southern boundaries and instead provided native planting buffer at the northern boundary of the site. Along the western boundary of the site, a 3m high berm planted with native trees was introduced at this stage. On the southwestern section of the site, a 15m buffer of primary native trees was introduced, with an 8.5m buffer of same at the southeastern section of the site.

Site Layout Plan Rev 5 shows a buffer of less than 15m between the developable area and the northern boundary of the site, a buffer of 20m between the badger sett and Unit 6 and a buffer of less than 150m between the otter sett and the developable area. This iteration of the Site Layout also increased the planting on the southern boundary of the site to 10,015sqm (approx. 1.002 hectares). The southern boundary also includes a buffer, which extends up to 48.5m in parts between the developable area and the edge of the site boundary.

Site Layout Plan Rev 10 shows a buffer of less than 15m between the developable area and the northern boundary of the site, a buffer of 20m from badger sett and less than 150m from the otter sett. This iteration of the layout removed the berm on the western boundary of the site and instead opted to retain the existing mature native hedgerow and habitat, while supplementing it with additional native shrub and tree planting. The native tree planting on the southern boundary of the site was increased to 1.72ha.

The iteration of the Site Layout Plan dated 19th January 2026 (RFI Rev 3) showed a buffer of 15m at the north of the site between the site boundary and the developable area at the north of the site. All retaining walls, service yards, buildings & parking areas are all located outside of this 15m buffer zone. It shows a buffer of greater than 30m between the badger sett and the developable area. It also shows a buffer of approximately 138m between the otter holt and Unit 2 at the southeast of the site. Furthermore, this iteration presents two new berms on the southern boundary of the site, each containing primary native tree planting. Additionally, it incorporated a reduction in floor space for each unit as detailed in the Site Layout Plan.

Following the completion of the archaeological geophysical survey and test trenching, it was confirmed that two archaeological enclosures had been discovered at the western boundary of the site. Following consultation with Cork County Council, the applicant was advised to preserve these in situ (i.e. to ensure that the enclosure and its respective buffer area are left more or less undeveloped). Accordingly, the Site Layout



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Plan was revised in May 2025 (RFI Rev 5) to account for this – The floorspace of Unit 6 was reduced, while the reduction of same for Unit 5 was even greater. These reductions were undertaken to ensure that there was no encroachment onto the archaeological buffer zone, and layout configurations were taken to account for required yard space and access to same. Feedback was issued from Cork County Council in respect of the above layout. It was noted that the applicant needed to give due cognisance to considerations such as flooding, ecology, landscape and archaeology (feedback included with email). Specifically, it was noted that the developable area should focus on the eastern half of the site. Accordingly, the Site Layout Plan was revised (RFI Rev 7) to remove Unit 5, which was previously at the northwestern corner of the site. A further amendment was made to reduce the floorspace of Unit 6 at the southwestern corner, in order to limit any encroachment into the western half of the site. The berm at the western boundary was removed to take on board feedback from Cork County Council, while it is also proposed to remove the berm at the southern boundary.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on pages 11-13 of the accompanying application, a number of alternative solutions, including the “do-nothing alternative” were examined by the applicant.

The application and supporting documentation details multiple iterations of the site layout which are not applied for. It should be clear that this derogation application relates only to Figure 5.2 Proposed layout revision 7 on page 23 of the Carrigtwohill otter survey & derogation report 2026.

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 application relates to potential indirect disturbance to an inactive otter holt, c 60m outside the development boundary.

The otter is currently in favourable conservation status across Ireland.

Mitigation measures, including mitigation by design, focusing on the minimisation of disturbance to otter (see below), will be implemented during the planned works.

Providing these measures are implemented I am satisfied that the planned works 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



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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]

Kate Greaney

Signed: .

Date: August 17, 2026

Position: Ecologist