NPWS
An tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra
National Parks and Wildlife Service

Application for Derogation

Under Regulation 54 & 54A of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended

Revision 2.0 – July 2025



- This form can be used by any individual or Company applying for a derogation under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011 ("the Regulations") **or** any individual applying on behalf of the Minister for Housing, Local Government and Heritage under Regulation 54(A) of the Regulations.

- Note this application form is not for Domestic Dwelling Derogations (bats within private homes) which can be found here > (3D Application Form)

- Please ensure that you answer questions fully in order to avoid delays and/or your application being rejected on the basis that it does not contain sufficient information and detail for the application to be considered further.

- Please read and familiarise yourself with the NPWS Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants

- Please read and familiarise yourself with the European Commission's Guidance document on the strict protection of animal species of Community interest under the Habitats Directive

- Please also note that the responses to these questions are supplementary to the documentation required for the NPWS to be in a position to consider your application. A complete application should include both the application form and an associated report. Failure to supply either will result in your application being returned and/or refused.

- In circumstances in which a derogation is given on foot of this application, the Applicant is responsible for ensuring compliance with the conditions of any such derogation, even though they may employ another person to act on their behalf. To carry out any activity without, or not in accordance with, a derogation granted under regulation 54 or 54A of the Regulations constitutes a criminal offence, subject to prosecution.

- If you experience any problems filling in this form, please contact the Wildlife Licensing Unit: reg54derogations@npws.gov.ie

- Please note – applications, associated reports and derogations will be published on the NPWS website and/or the Department's Open Data website.

- Where any applicant is applying for a derogation to carry out surveys, please ensure to list all qualified ecologists and trainees under their supervision. See section 1(c) of Part A.

Part A: The Applicant - Personal Details

These questions relate to the person responsible for any proposed works and who will be the **Applicant**.
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	Patrick	Kennedy
(b) Company Name, if applicable	N/A	
(c) Address Line 1	**Formation Homes Ireland**	
Address Line 2	6 Hartstonge St	
Town	Limerick City	
County	County Limerick	
Eircode	V94 WY02	
(d) Contact number	[redacted]	
(e) Email address	[redacted]	
(f) Address where works are to be carried out if different from (b) above.		
Address Line 1	Rivers Road	
Address Line 2	Ballyclough Cross	
Town	Annacotty	
County	Limerick	
Eircode		

Details of Person Submitting Application on Behalf of Applicant/Derogation Holder

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

1. (b) Name of Person/Ecologist

Title (Mr/Mrs/Miss/Ms/Dr)	Forename(s)	Surname
Dr	Dominic	Tilley
(b) Company Name	JBA	
Address Line 1	24 Grove Island	
Address Line 2	Corbally	
Town	Limerick	
County	Limerick	
Eircode	V94 312N	
(c) Contact number	[redacted]	
(d) Email address	[redacted]	
(e) Relationship to Applicant	Planning ecologist	

For Survey Derogations Only

1. (c) Please Indicate the Names to Appear on the Derogation Along with the Position Held e.g. Supervisor/Trainee

Forename(s)	Surname	Supervisor or Trainee

Part B: Species covered by the Derogation

1. **Species of Animal:** Please indicate which species is/are the subject of the application:

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

2. Please detail the exact species (scientific name): *Lutra lutra*

3. Please provide the maximum number of individuals affected* _____

4. Please provide the maximum number of breeding or resting sites affected* 1

5. Please provide the maximum number of eggs to be taken* NA

6. Please provide the maximum number of eggs to be destroyed* NA

*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.

The application is being made through applying the precautionary principle for temporary indirect disturbance. No holt/ resting place closure is anticipated as part of the current application.

7. **Species of Plant:** Please indicate which species is/are the subject of the application:

- 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-BAT-2025-337 – returns submitted

DER-BAT-2025-235 – returns submitted

DER-BAT-2026-98 – active licence no returns submitted

DER-BAT-2026-134 – active licence no returns submitted

DER-BAT-2026-239 – active licence no returns submitted

9. **Proposed Dates for Activities:** Please indicate the timeframe that you propose to carry out the activities. Dates set by NPWS may differ from dates proposed here. *A derogation will only be issued with a start and end date within a calendar year.*

Start Date:	01/09/2026
End Date:	31/12/2026

Part C: Nature of the Derogation.

1. Please tick which prohibition(s) the application for a derogation relates to:

Regulation 51	
Deliberately capture or kill any specimen of the relevant species in the wild	☐
Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	☒
Deliberately take or destroy eggs of the relevant species in the wild	☐
Damage or destroy a breeding or resting place of such an animal, or	☐
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.	☐
Regulation 52	
Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	☐
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.	☐

Further information should be provided in the format set out in Part E: Template for Supporting Information

Part D: Derogation Tests

Note: The following <u>summary</u> information must be provided by the applicant in all cases, and will be used to determine if a derogation can be provided. Further information must be provided in the format set out in Part E: Template for Supporting Information

Test 1: Reason for the Derogation

1. Please tick which reason(s) below explains how this application qualifies under Regulation 54(2)(a-e) or Regulation 54A(2)(a-e) of the European Communities (Birds and Natural Habitats) Regulations: Please provide a summary of how the application meets the 3 conditions required to provide a derogation. Note that in all cases additional information must be provided (see Part E).

a.	In the interests of protecting wild flora and fauna and conserving natural habitats **(proceed to 1a)**	☐
b.	To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property **(proceed to 1b)**	☐
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 **(proceed to 1c)**	☒
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 **(proceed to 1d)**	☐
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 **(proceed to 1e)**	☐

1a. In the interests of protecting wild flora and fauna and conserving natural habitats:

i) Please state the wild flora, fauna or habitats that require protection and /or conservation.

ii) Please summarise how the interests of protection and conservation of the species/habitat concerned justify affecting another species under strict protection.

1b) To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property:

i) Please summarise the nature of the potential damage, why it is considered “serious” and how this outweighs the conservation interest of the species under strict protection.

1c) 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:

i) Where the reason is for public health and public safety, summarise the evidence provided to support this reason (e.g. documentary evidence of the risk from a chartered structural engineer, tree surgeon, Garda Síochána, qualified health professional etc.)

ii) Where the reason is 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", summarise the nature of the public interest and how this outweighs the conservation interest of the species under strict protection.

The Economic and Social Research (ESRI) Institute projects the population of Ireland to rise to approximately 5.74 million by 2031. Based on population projection estimates, Ireland needs an annual average of 44,000 housing units to keep up with structural demand. Further estimates by the Central Bank of Ireland indicates a need of around 52,000 housing units every year (Central Bank of Ireland, 2024). Housing supply has increased by more than 137,000 homes since the beginning of 2021, but the changes in population and future population projections mean that the pace of housing delivery must accelerate in the coming years. That need for housing is dependent on the factors that affect housing production, such as land, labour, capital, and the lead-in time for the development of housing.

Limerick's target for delivery of new homes under ''Housing for All'' is 2,693 homes from 2022-2026. 2021 Indicative data used for the Housing Delivery Action Plan 2022-2026 shows that 979 households are on waiting list in Annacotty, Ballysimon, Castletroy (undivided area unit in the Action Plan), with a target of 472 new units with only 40% approved. The Limerick City and County Development Plan 2022-2028 Volume 2 - Settlements and Zoning Maps places Annacotty within the boundaries of Limerick City and Suburbs and lists 160 sites zoned Residential. The lands are zoned new residential in the Limerick City and County Development Plan (site 159), with a target density of at least 35 units/ ha (LCCC 2022). The Proposed Development will deliver housing (105 units) and a creche to cater for the needs of the growing population in Limerick.

The Proposed Development site at Rivers Road, Ballyclough Cross, Annacotty (52.6613491438943, -8.532076495756817) is zoned New Residential (Site 159), with the adjacent parcel to the south, separating

Site 159 from the M7 motorway, zoned Agricultural. Lands to the west and north are developed residential areas.

The Proposed Development may lead to noise disturbance during the construction phase and therefore a derogation licence for temporary disturbance is required. Mitigation measures to limit noise disturbance are required, and the derogation licence allows for an extra layer of oversight.

The Proposed Development site does not, at the time of the last survey, hold any Otter resting place and therefore this Proposed Development will not result in the loss of a resting place.

As such, housing needs may be met, without adversely impacting on Otter population in the Mulkear and the wider Lower River Shannon SAC.

1d) 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:

i) Please summarise the objective(s) of the proposed activities making reference to those listed above and how the the purpose of such activities overrides the interests of strict protection of the species. [1]

1e) 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

i) Please clearly state the objective of the activity and verify that this reason is being chosen as the objective of the activity does not match reasons a-d listed above.

ii) Please summarise how the activity will result in the taking or keeping of limited numbers of specimens of the species, how it will be applied on a selective basis and to a limited extent, and how it will be done under strictly supervised conditions.

[1] Note that this reason may be appropriate for when research involves surveys that may cause disturbance of species under strict protection. But the sole purpose of the surveys should be for research and education or the other reasons listed above under 1d.

Test 2: Absence of Alternative solutions

2. Please summarise the alternative solutions that have been considered and why these solutions are deemed unsatisfactory. This must include the option of the "do-nothing" alternative and evidence should be objective and robust. Note that in all cases further information must be provided in the format set out in Part E: Template for Supporting Information.

Alternative Solution	Reasons for "Unsatisfactory"
Do-Nothing Under the current development plan the lands are zoned residential; should this application not go ahead, further planning application may be put forward to meet the housing demands for the area.	The site is currently zoned residential, there is a need for housing in Limerick City and Suburbs; other sites within the City and Suburbs are currently being developed/ under planning proposals to provide housing. However, there is an overall shortage of housing to meet current needs. If no development goes ahead, the lands would likely carry on being used for agricultural purposes The site has been subject to historical infill meaning that although completely recolonised with a cover of herbaceous vegetation, the species composition is likely altered to what could be expected to occur on similar types of sites that have been left undisturbed. OPW flood maps indicate that the site does not flood. The footpath between the fence and the top of the river bank would likely still be used by walkers and fishers.
Different housing layouts Early discussion for the layout has reduced setbacks from the watercourses; following discussions, and in-line with IFI guidance, and EH018 of the City and County Development plan, riparian buffers of	Different iterations of the housing mix and layout were discussed through the design of the proposed development. Early proposed layouts had reduced buffers between the proposed development, and the watercourses present on site. These buffers were increased to 20m to balance the needs for housing and the ecological capacity of the site.

20m were applied to both the northern stream and the Mulkear.	The site itself is approximately 300m long (east west) and 80-100m wide (north south), meaning that applying wider buffers to the watercourses would mean that no or very limited development could occur. E.g. Applying a 100m buffer to the Mulkear would mean that approximately half of the housing units would be removed. Should a similar buffer be applied to the northern boundary stream, then no units could be built on site. The proposed layout in this planning applications allows to meet the housing needs and requirements set by the Local Authority, whilst balancing out with the needs for maintaining ecological buffers.

* Please insert additional rows above if needed

Test 3: Impact of a Derogation on Conservation Status

3. Please summarise the possible impacts on the population of the species that is subject to this application, taking into account all the mitigation and/or compensation measures that are to be undertaken. Evidence that such mitigation has been successful elsewhere should be provided where relevant. Mitigation measures being relied upon must ensure that the 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. Note that in all cases further information must be provided in the format set out in Part E: Template for Supporting Information.

Periodic Otter surveys carried out on a national level show that Ireland continues to remain a stronghold for Otter. The latest survey carried out in 2023-2024 indicated that the species is widespread with an overall stable population, with the status remaining favourable.

Otter hold a territory along the stretch of the Mulkear running adjacent to the site. Evidence collected to date suggest that a breeding female is established in the area, and one male is also present. No known holts or resting place occur on site.

The Proposed Development may impact Otter in two distinct ways.

- Firstly, in the absence of any mitigation construction work may cause disturbance to Otter in the area through noise emissions, may lead to water pollution which could indirectly impact on Otter health and food sources, and entrapment should excavations be left unprotected.
- Secondly, once the development is complete water runoff may lead to water pollution.

Therefore, mitigation measures are required for the construction phase and for the operational phase of the site. The following measures are proposed.

Mitigation measures during the construction phase include:

- Provision of a site ecologist with oversight and verification role, with prevention-based mitigation measures upstream of ecologist intervention. The ecologist will also monitor the site and surrounding areas prior to construction beginning to determine whether Otter have established a resting place in the area.
- Site survey and camera trap monitoring to be carried prior, during and post construction following best practice guidelines..

- a 20m buffer shall be maintained along the riverbank, as measured from the top of the bank. This buffer will be free of works, and not used for storage of materials or vehicles, nor for the set-up of any site compounds. It will be fenced off so that no machinery can accidentally track through. The buffer will be retained with its existing vegetation. The grass cover will play a role in retaining any surface waters and help filter out sediment before any water naturally rejoins the river. This 20 buffer should be sufficiently wide to serve this purpose. If during site monitoring the ECoW records sediment ingress into the watercourses, then targeted measures shall be applied.

- Targeted measures include but are not limited to:
    - Silt curtains / silt barriers
    - Vegetated bund to prevent runoff
    - Ditch/ pool features to retain water and slow runoff
- Surface water runoff from areas stripped of topsoil and surface water collected in excavations will be directed to on-site settlement ponds or silt busters where measures will be implemented to capture and treat sediment laden runoff prior to discharge of surface water at a controlled rate.
- Pipe ends associated with surface water network will be blocked / capped off until connected to the completed storm-water system.
- Surface water network will be clean and clear of sediment/ polluting materials before connection to the northern boundary stream.
- There will be no works done on the banks of the river Mulkear, and no materials will be disposed of into the river.
- Wash waters will not be permitted to drain into watercourses.
- The watercourses shall not be used as a water source for site related activities or to wash equipment.

Physical Retention of all Commuting and Foraging Routes

- The riparian corridor along the stream and river and the existing trees will be retained. All mature trees are to be retained.
- The riparian corridor along the Mulkear will be left untouched and no trees are to be felled, pruned, trimmed or otherwise interfered with. An undisturbed vegetated buffer of at least 20m will be maintained along the eastern boundary at all times.
- The existing fenceline shall be retained to provide an extra physical barrier between the site and the top of the riverbank. This barrier is composed of sheep wire allowing for free passage of small mammals – including Otter – and therefore will not obstruct wildlife should it be passing through the area.

Mitigation measures during operational phase include measures built into the design:

- Retention of 20m undeveloped buffers, with treelines left untouched; any supplemental planting will be site appropriate and of native and local origin.

- SUDS, oil and silt interceptors on the surface water drainage network to prevent water pollution
- Lighting to meet bat standards, with no spill on to the watercourses and treelines.

Mitigation success likelihood:
By ensuring that no physical harm can happen to Otter during construction for instance by keeping the site safe, with escape routes from excavations and or covers, then the physical risk to Otter is negligible and the impacts on the wider population negligible.
By retaining natural physical barriers, then these will keep acting as potential corridors and habitat to Otter. The linear habitats are narrow and limited in space, but by providing a 20m buffer to the watercourses, this habitat has opportunity to spread, and a wider riparian woodland can be established.

Proposed water quality measures are all industry standard, and the implementation will be overseen by the site ecologist. This will ensure that 1) mitigation measures are applied, 2) should there be any ecological issues the ecologist will be able to stop the works and report to the relevant authorities (Local Authority, IFI, NPWS).

Part E: Template for Supporting Information

This application form should provide a summary of the evidence that the applicant has provided. In all cases, it is necessary to provide separate supporting information so that the assessment of the application can be undertaken in a robust and comprehensive manner. Applicants should refer to guidance provided by the NPWS and the European Commission whilst preparing this application form and the supporting information.

It is essential that supporting information is prepared in a consistent manner using the template below so that NPWS officials assessing the application can locate the relevant evidence to determine if the three Tests can be met. Failure to provide sufficient evidence will result in the application being refused.

The structure of the Supporting Information should be as follows:

1) Table of Contents

2) Introduction
    a. Objective of the proposed works (for example, as part of construction of a national road, repair of roofing, undertaking surveys etc.)
    b. Name, qualifications and relevant experience of scientific staff, including trainees, (e.g. ecologist) involved in the preparation of the application and those responsible for carrying out the proposed activity.
    c. If this application is for the carrying out of surveys that may cause disturbance, qualifications of all involved must be provided and trainees must be clearly identified.

3) Background to proposed activity including location, ownership, type of and need for the proposed activity, planning history, policy context, zoning in relevant Development plan (or equivalent), etc.

4) Full details of proposed activity to be covered by the derogation (including a site plan). The site may be inspected by an NPWS representative, so the details given should clearly reflect the extent of the project. This information will be used to compare site conditions with the Method Statement.

5) Ecological Survey and site assessment (Not required for applications to carry out surveys)
    a. Pre-existing information on species at location and environs.
    b. Status of the species in the local/regional area (relevant to the consideration of the impact on the population at the relevant geographic scale (Test 3))
    c. Objective(s) of survey
    d. Description of Surveys Area
    e. Survey methodology (including evidence as to how the methodology represents best practice and is appropriate to the Objective). Methodology should include survey maps, details of timing, climate, equipment used and identify any uncertainties or difficulties encountered.
    f. Survey results including raw data, any processed or aggregated data, and negative results as appropriate. Photographs and maps must be provided where site-specific features are referred.
    g. Population size class assessment.

6) Evidence to support the Derogation Tests

    a. Test 1 - Reason for Derogation:
        i. There should be a clear explanation as to why a specific reason(s) has been selected in the application form.

ii. Applicants are advised to read the guidance published by the NPWS 'Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants" with specific reference to Section 3.1.

b. Test 2 - Absence of Alternative Solutions
   i. Applicants must list the alternatives to the proposed activity that have been considered, including the do-nothing alternatives in a clear and objective manner. A basic requirement is that these alternatives should be compared in terms of their impact on the species subject to strict protection. It should be clear to NPWS officials as to why the chosen approach has been selected.
   ii. Applicants are advised to read the guidance published by 'Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants" with specific reference to Section 3.2.

c. Test 3 - Impact of a derogation on Conservation Status
   i. Applicants should include details of the population at the appropriate geographic scale and an evaluation of how the proposed activity will affect the conservation status both before and after mitigation measures have been applied.
   ii. Full and detailed descriptions of proposed mitigation measures that are relevant to the potential impact on the target species. Evidence that such mitigation has been successful elsewhere should be provided, where available.
   iii. Applicants are advised to read the guidance published 'Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants" with specific reference to Section 3.3.

7) Monitoring the impacts of the derogations
   a. Applicants must include details of how they propose to verify whether the derogations have been implemented correctly and whether they achieved their objective, using scientifically based evidence, and, if necessary, how the applicant will take corrective measures where required.
   b. Applicants should provide details of proposed reports to be submitted to the NPWS including the results of monitoring.
   c. Applicants are advised to read the guidance published by the European Commission "Guidance document on the strict protection of animal species of Community interest under the Habitats Directive" with specific reference to Section 3.4.

Part F. 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 their functions under these Regulations or for obtaining any information which they may require for such purposes.

Signature of the Applicant 

Date 01 September 2026

Name in BLOCK LETTERS PATRICK KENNEDY

PRIVACY STATEMENT

See Privacy Statement at www.npws.ie/licences

npws.ie



Department of Housing, Local Government and Heritage

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