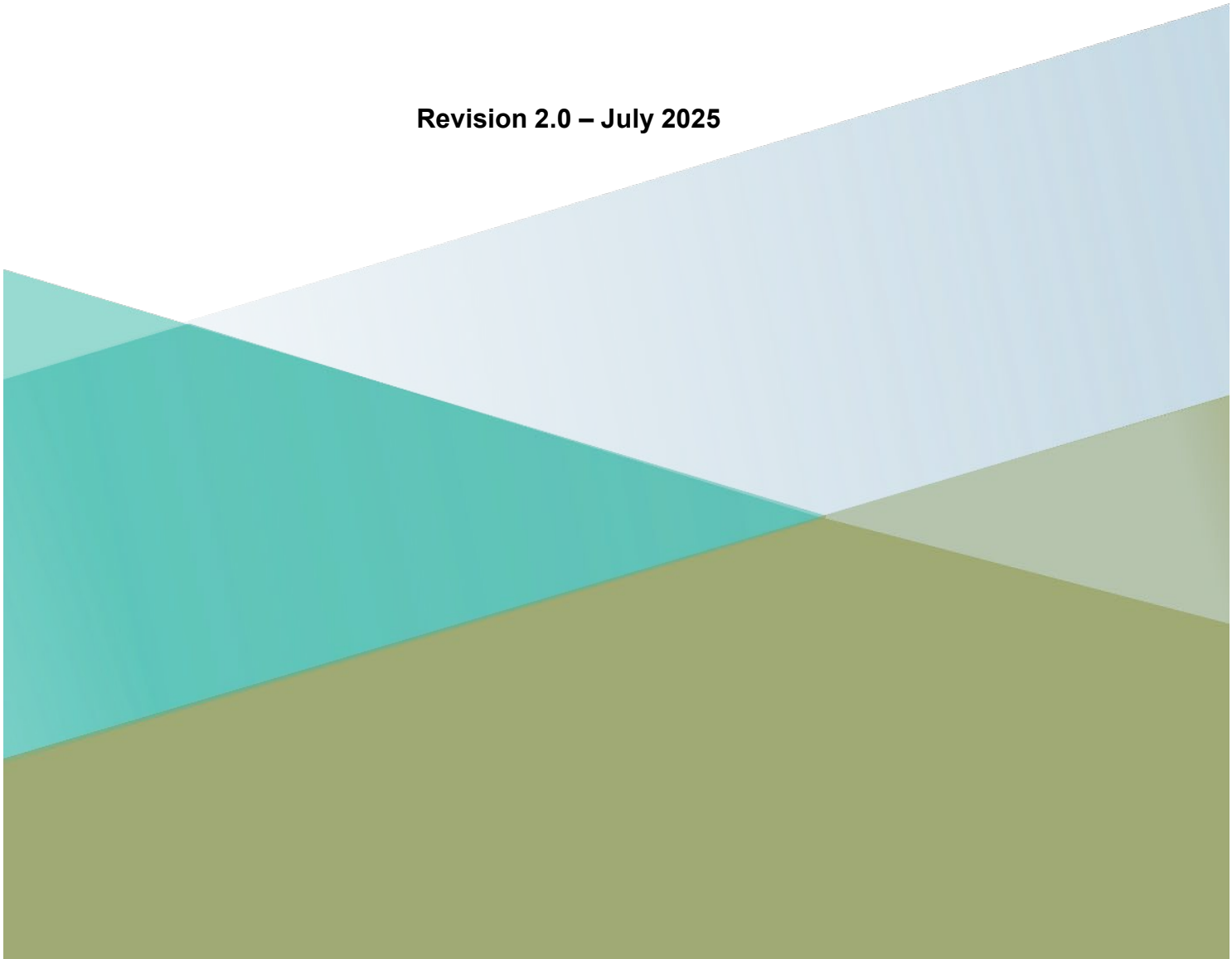
NPWS
An tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra
National Parks and Wildlife Service

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	Gerald	Curley
(b) Company Name, if applicable	Fingal County Council	
(c) Address Line 1	County Hall, Main St,	
Address Line 2	Swords Demesne, Swords	
Town	Swords	
County	County Dublin	
Eircode	K67 X8Y2	
(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	Towpath/greenway on Royal Canal between Confey Slipway, Co. Kildare and 12th Lock, Old Navan Road, Co. Dublin	
Address Line 2		
Town	Dublin 15	
County	Dublin	
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)	William	Mulville
(b) Company Name	JBA Consulting Ltd.	
Address Line 1	Second Floor, Lincoln House	
Address Line 2	Lincoln Lane, Arran Quay	
Town	Smithfield	
County	Dublin	
Eircode	D07 Y75P	
(c) Contact number	[redacted]	
(d) Email address	[redacted]	
(e) Relationship to Applicant	Sub-contracted 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
William	Mulville	Senior Ecologist

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* <10-12

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

5. Please provide the maximum number of eggs to be taken* N/A

6. Please provide the maximum number of eggs to be destroyed* N/A

*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.

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 -OTTER-2025-12 - granted for the licence year 2025. Returns made April 2026

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:	2029
End Date:	2031

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 need for the proposed Royal Canal Urban Greenway is firmly established by a broad range of national, regional and local policy objectives relating to sustainable mobility, compact growth, climate action, recreation, tourism, public health and quality of life. The scheme represents a strategically important piece of active travel infrastructure that will make a significant contribution to the delivery of these objectives by providing a high-quality, safe, attractive and environmentally sensitive pedestrian and cycle route based on an integrated and sustainable transport network that is inclusive and accessible to all users.

The Proposed Development will deliver a major new amenity for local residents and for communities across Dublin 15, the wider Dublin Metropolitan Area and east Kildare, enhancing quality of life, promoting healthy and active lifestyles, facilitating sustainable travel choices and supporting social inclusion. The Greenway will strengthen connectivity between existing and planned residential areas, employment centres, schools, public transport services and recreational destinations, providing a viable alternative to private car use and helping to reduce transport-related emissions.

The need for the development is further reinforced by its role in implementing the objectives of the National Planning Framework, National Sustainable Mobility Policy, Climate Action Plan, Transport Strategy for the Greater Dublin Area, the Strategy for the Future Development of National and Regional Greenways and the Fingal Development Plan 2023–2029.

As part of the wider Royal Canal Greenway and National Cycle Network, the scheme will also enhance access to the Royal Canal corridor as a significant recreational, environmental and heritage asset, while acting as a tourism attractor with associated economic benefits for the area. The Proposed Greenway therefore represents essential strategic infrastructure that will support the sustainable growth and long-term resilience of the Dublin Metropolitan Area while delivering substantial environmental, social and economic benefits.

Approximately 134km of the Royal Canal Greenway has now been completed – stretching from Leixlip in Kildare to Cloondara in Co. Longford. To the east, a 4km section from Ashtown to Phibsborough is completed. The Proposed Scheme of 8.1km will provide the missing link between the urban and rural sections of the Greenway already completed.

The key objectives of the Proposed Scheme are as follows:

- To deliver a high-quality, safe and accessible active travel corridor comprising a shared walking and cycling route that meets existing and future commuter and recreational demand.
- To transform the Royal Canal corridor into an attractive and welcoming public space, enhancing local amenity, recreation and quality of life, including the provision of a pocket park at Hansfield.
- To improve connectivity and permeability between communities, key destinations and public transport infrastructure, including rail stations, DART+ West and the wider regional active travel network.

- To promote walking and cycling as attractive, viable and sustainable transport choices, supporting healthier lifestyles, reducing reliance on private cars and contributing to reduced traffic congestion.
- To support tourism, local economic activity and community wellbeing through the provision of a high-quality Greenway and active travel facility.
- To protect and enhance the environmental, ecological, heritage and landscape value of the Royal Canal corridor, while respecting existing uses and operational requirements.
- To ensure the Greenway is planned, designed and delivered in accordance with relevant national guidance, statutory requirements and stakeholder objectives, including the implementation of appropriate mitigation measures identified through environmental assessment.

The need for the Proposed Development is further reinforced by the significant population growth that has occurred and is planned within the Royal Canal corridor and wider Dublin 15 area. A review of planning activity undertaken as part of this report identified 1,838 residential units granted planning permission within 500m of the route since 2020, in addition to substantial planned growth associated with the Hansfield SDZ, Barnhill Local Area Plan and Kellystown Local Area Plan areas The continued delivery of housing and population growth in these locations requires the parallel provision of high-quality active travel, recreation and green infrastructure in order to support sustainable communities, enhance accessibility and reduce reliance on private car travel. In this regard, the Proposed Development represents essential strategic infrastructure which will provide sustainable connectivity between existing and emerging communities, schools, employment locations, local services, public transport facilities and recreational amenities throughout the corridor.

There is a clear, compelling rationale for development of the Proposed Greenway along the Royal Canal. As demonstrated in Section 5 Policy – there is widespread support across a broad range of national, regional and local policy for quality Greenway transport corridors with recognition of the benefits for sustainable mobility, transport and accessibility, contribution to the climate agenda, economic benefits including for tourism, and as quality-of-life enablers, recreational and amenity assets.

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]

[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.

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.

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	The 'do nothing' scenario for the Royal Canal Urban Greenway (Proposed Scheme) is that pedestrians and cyclists will continue to walk and cycle along the existing narrow and substantially unsurfaced towpath. The towpath along the 'Deep Sinking' section is very dangerous at present. This section typically consists of a 2-3m wide track, with local pinch points of approx. 1.3m, flanked by a deep cutting of 1.0-9.0m to the canal. Also, tree roots cross the towpath at a number of locations, creating trip hazards. Accessibility to the greenway on the southern embankment is restricted between Kennan Bridge (Porterstown Road) and Kirkpatrick Bridge (Coolmine Road) (approx. 900m) and between Kirkpatrick Bridge (Coolmine Road) and Granard Bridge (Castleknock Road)

	(approx. 1.5km) due to the railway line on the southern side of the towpath, thereby preventing permeability and linkages from residential catchments, resulting in less passive surveillance and security for users. The existing towpath results in an environment that is not safe, not comfortable and not attractive for pedestrians and cyclists. The latent commuter and recreational user demand will continue to be supressed by the existing poor walking and cycling environment along the towpath (particularly within the 'Deep Sinking' section. In the context of human health, the benefits of walking and cycling are well documented and include improved cardiovascular fitness, chronic disease prevention, improved mental health wellbeing, strengthened immune system and a reduced risk of cancer, obesity and coronary heart disease. These benefits will not be realised in the 'do nothing' scenario. If the proposed greenway is not constructed, the additional economic benefit which could be derived from the project will not be realised. This benefit can be estimated in basic terms by reference to the Department of Public Expenditure and Reforms 'Public Capital programme 2021 – 2030: Labour Intensity of Public Investment'. The paper estimates that for a €1 million increase in construction expenditure, direct and indirect employment will increase by approximately 8 job years. The analysis, also have estimated, that on average, approximately 80,742 construction jobs will be sustained per year as a result of public investment over the period of 2021 and 2030. In the 'do nothing' scenario, the long-standing objectives of the Fingal County Development Plan to deliver the proposed development will not be realised. Based on the reasons outlined above, the 'do nothing' scenario will essentially result in a

	lost opportunity, and it would leave a section of the strategic Dublin–Galway cycle corridor (266 km) incomplete.
Alternatives considered	As part of the EIAR, a range of route and design alternatives was considered for the Proposed development. The scheme was developed iteratively, informed by feasibility and constraints assessment, public consultation, stakeholder engagement, ground investigations, independent technical review and environmental surveys. In relation to the identified otter breeding holt near the Fingal–Kildare county boundary, the wider route alternatives did not provide a materially different alignment at this location. The scope for local realignment is constrained by the existing towpath, the Royal Canal and adjoining lands. The proposed route is located on the opposite side of the Royal Canal from the holt. At the location of the identified otter breeding holt, no practicable alternative alignment is available along the Royal Canal that would have a lesser impact on the otter holt due to the physical constraints of the existing towpath, the Royal Canal and adjoining lands. The proposed route is located on the opposite side of the Royal Canal from the holt. The proposed route is located on the north side of the Royal Canal to facilitate the continued user of the Greenway by recreational users along the Canal at this location. The selected design reduces the route to a minimum width of 2 m at this location, retains a 1 m verge between the route and the canal and uses an unbound quarry-dust surface. These measures reduce the construction footprint and intensity of the works. The selected approach is considered the least-impacting practicable solution, with potential effects principally comprising temporary construction-related noise, vibration, lighting and visual disturbance, subject to the proposed mitigation, supervision and monitoring measures.

* 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 national survey carried out in 2023-2024 indicated that the species is widespread with an overall stable population, with the status remaining favourable
- Otter population within the Royal Canal, most particularly at the breeding holt near Confey Slipway are at risk of impacts from noise, and disturbance, and entrapment should excavations be left unprotected. Indirect impacts on water quality may impact Otter health and prey items. The breeding site located at the westernmost section of the Scheme is at risk of disturbance and / or damage throughout the construction phase if the necessary monitoring and mitigations are not adhered to.
- Therefore, mitigation measures are required for the construction phase of the site. The following measures are proposed:
- Appointment of an Ecological Clerk of Works (ECoW) for pre-work monitoring, construction, and post construction monitoring phases of the Proposed Scheme to oversee and verify ecological mitigations required.
    - Strict adherence to the CEMP which pertains to best practice guidance and the protection of surface water, groundwater and air quality.
    - Standard mammal mitigations including covering of all excavations and provision of escape ramps to prevent accidental trappings.
    - Exclusion fencing to be installed to prevent Otter access to potentially hazardous areas of the site.
    - Pre-construction survey for Otter activity along the Proposed Scheme including camera trapping of the active and inactive holts and couches
    - The installation of an artificial holt over 50m west of the Proposed Scheme to provide additional refuge during the works.
    - Continuous camera trap monitoring of all active and inactive holts and couches within the Proposed Scheme.
    - One-way gates to be installed for the exclusion of active holts.
    - Inactive Badger setts potentially used by Otter temporarily blocked to prevent potential occupation by Otter during the construction works.
- Proposed Mitigation Measures for Noise and Vibration include but are not limited to:
    - Use of heavy machinery restricted to normal working hours.
    - Installation of an acoustic exhaust for mobile plant items. Mobile plant will be switched off when not in use.
    - All items of plant will be subject to regular maintenance.
    - Works will be limited to daylight hours whenever possible.
- Surface Water Mitigations include but are not limited to:
    - Silt fencing.
    - Suspended work in cases of heavy rainfall.
    - All machinery and plant used will be regularly maintained and serviced and will comply with appropriate standards to ensure that leakage of diesel, oil and lubricants is prevented.

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 17/09/2026

Name in BLOCK LETTERS WILLIAM MULVILLE

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