



NPWS

An tSeirbhís Páircenna
Náisiúnta agus Fiadhúlra
National Parks and Wildlife
Service

**Derogation Number
DER-Kerry Slug-2025-04**

**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 **Danny O’Keefe of Muckross House, Killarney National Park, Killarney, County Kerry** 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 **Kerry Slug** 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



Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Between Dinis Car Park and Torc (Cardiac Hill) Car Park and N71 Road – Torc, Killarney, Co. Kerry** for **Danny O’Keefe**.
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 **Kerry Slug**.
3. The works will be supervised by an ecologist.
4. This derogation may be modified or revoked, for stated reasons, at any time.
5. The mitigation measures outlined in the application report (**Proposed Dinis Loop Walkway/Cycleway, Killarney, Co. Kerry**), 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.
6. The actions which this derogation authorise shall be completed between the **26th September – 31st December 2025 inclusive**.
7. 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 54 of the Habitats Regulations.
8. 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.
9. 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.
10. The local NPWS **District Conservation Officer** should be contacted prior to the commencement of any activity.
11. Prior to any construction work which involves removal of areas of rock and natural vegetation that constitutes suitable **Kerry Slug** habitat, the area should be competently searched for the presence of Kerry Slug and any found should be removed for translocation. This removal work should commence one month before the start of any scheduled work.
12. **Kerry Slugs** removed from the site should be translocated to a suitable area of habitat, this area to be approved in advance by NPWS.
13. Where possible rocks that are used by **Kerry Slugs** should be removed intact and placed within suitable translocation areas.
14. All trapping and translocation work must be carried out by a suitably qualified person.
15. There should be no net loss of habitat due to the work and replacement habitat should be provided in terms of woodland planting of native species that suitable for **Kerry Slugs** or by movement and replacement of rock outcrops or by creation of new bare rock faces.
16. On completion of the actions which this derogation authorises, all recordings of Kerry Slugs affected will be made using the Returns form and must be submitted to the NPWS **within four weeks of the expiry date of this derogation**. Along with the Returns form, a report must be submitted to wildlife.reports@npws.gov.ie and **Dr. Chris Peppiatt**, chris.peppiatt@npws.gov.ie. This report should include locations of all translocation sites, the number of **Kerry Slugs** translocated, areas of replacement habitat created and results of the monitoring programme.



NPWS

An tScribhís Páircanna
Náisiúnta agus Fiadhúla
National Parks and Wildlife
Service

For the Minister for Housing, Local Government & Heritage

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

26 September 2025

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



**In the matter of Article 16 of the Habitats Directive and Regulation 54A(2) (flora, fauna and habitats)
of the European Communities (Birds and Natural Habitats) Regulations 2011-2021.**

Derogation Assessment Form

Name of Applicant:

Danny O'Keeffe, Regional Manager, Kerry Region, National Parks and Wildlife Service.

Location/Name of Project:

Dinis-Loop raised boardwalk between the Dinis Car Park and Torc (Cardiac Hill) Car Park and Muckross Road N71, Killarney, County Kerry.

Tick the following prohibition as chosen on the application:

(a) Deliberately capture or kill any specimen of the relevant species in the wild	<input checked="" type="checkbox"/>
(b) Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	<input type="checkbox"/>
(c) Deliberately take or destroy eggs of the relevant species in the wild	<input type="checkbox"/>
(d) Damage or destroy a breeding or resting place of such an animal, or	<input checked="" type="checkbox"/>
(e) Keep, transport, sell, exchange, offer for sale or offer for exchange any specimen of the relevant species taken in the wild, other than those taken legally as referred to in Article 12(2) of the Habitats Directive.	<input type="checkbox"/>
(a) Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	<input type="checkbox"/>
(b) Keep, transport, sell, exchange, offer for sale or offer for exchange any specimen of these species taken in the wild, other than those taken legally as referred to in Article 13(1)(b) of the Habitats Directive.	<input type="checkbox"/>

Test 1: A reason(s) listed in Regulation 54 (a)-(e) applies to the proposed activity:

Tick which reason the applicant claims should be applied to the derogation

(a) In the interests of protecting wild flora and fauna and conserving natural habitats,	<input type="checkbox"/>
(b) To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property	<input type="checkbox"/>
(c) In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment,	<input checked="" type="checkbox"/>
(d) For the purpose of research and education, of re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including artificial propagation of plants, or	<input type="checkbox"/>
(e) To allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule.	<input type="checkbox"/>

Test 1: Conclusion

Please tick the following where it applies:

There is a valid reason(s) listed in Regulation 54 (a)-(e) which applies to the proposed activity:	Yes	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion:

The derogation is considered under Regulation 54A (c) of the European Communities (Birds and Natural Habitats) Regulations 2011-2021: for the proposed translocation of Kerry Slug (*Geomalacus maculosus*) and the movement of boulders and tree limbs inc. dead wood supporting Kerry Slug within the footprint of a proposed 1020m long x 3.5m wide raised platform walkway and cycleway at Dinis, parallel to the N71 road, Killarney, Co. Kerry. Full details of the development and its construction are provided in Appendix A and Appendix B respectively.

The proposed Dinis Loop walkway / cycleway, Killarney, Co. Kerry, Planning Reference 24/60025 and An Coimisiún Pleanála Case Number ABP-321908-25 is located within the dual designated European sites Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment Special Area of Conservation (SAC) and Killarney National Park Special Protection Area (SPA) and immediately adjacent to Qualifying Interests of the SAC.

The reason provided for granting the derogation is for 'imperative reasons of overriding public interest', such as public health and safety.

In demonstrating a link between the derogation and the cited objectives of overriding public interest, the Ecological Assessment Unit (EAU) has examined and considered the following documentation:

- Supporting information prepared by the applicant's consultants Malachy Walsh and Partners (MWP) (Malachy Walsh & Co. Ltd) (Appendix C) outlining the risks associated with shared narrow rural roads, citing the Road Safety Authority (RSA) Risk Rating Matrix. Applying the RSA risk matrix to the N71 at this location, this is a secondary regional road with a speed limit of 80km per hour and generally fits the high risk category for vehicle/cyclist collision; vehicle/pedestrian collision; and, loss of control into roadside users¹.
- The Killarney National Park- Risk Management System Audit prepared by Enterprise Risk Management Unit, State Claims Agency (SCA) (2024). Section 2.0 Findings and Recommendations, Table Part 8 (Priority Level 1) of this audit states that the Dinis Loop cycling route is a popular route and based on a one-way system. The last section of the loop takes cyclists [and pedestrians] on to the main Killarney- Kenmare Road [Muckcross Road N71 part of the Ring of Kerry]. A number of accidents have been recorded and subsequent claims filed. The SCA recommends remediation on the last portion of the Loop taking cyclists onto the Muckcross Road N71 (Appendix D).
- The SCA audit references a stateable concern and that damages to human health and safety have been sustained at this section of the Muckcross Road N71. To demonstrate evidence and statistics on incidents at the location, extracts from Transport Infrastructure Ireland (TII) Road Safety Inspection Reports from 2017 and 2022 have been examined (Appendix E and F respectively). In addition, the TII Head of Road Safety confirmed contemporary statistics. Between 2022-2024 inclusive, there were 27 recorded collisions on the Muckcross Road N71, eight of which involved cycles. During this period, four were injury collisions and all four involved cycles.

These documents show there is a stateable and provable health and safety objective demonstrated by actual evidence from public authority audits and road safety inspections. The applicant is a public authority (as the Minister of Department of Housing, Local Government and Heritage) and the

derogation is only in the public interest. The public interest is overriding, in that it is a long-term interest that will yield longstanding and permanent benefits to public health and safety and would be sufficient, in the EAU's opinion, to outweigh the short-term (detrimental) and long-term (neutral) interest of species conservation at this location.

The EAU are of the opinion that the public health and safety objective constitutes a sufficiently serious reason to justify the derogation.

¹ Commission Notice C(2021)7301. Guidance document on the strict protection of animal species of Community interest under the Habitats Directive. Section 3-33: *It seems reasonable to consider, as for Article 16(1)(b) of the Habitats Directive, that the use of derogations under Article 16(1)(c) does not require damages to human health or safety to be sustained before the adoption of derogation measures.*

Test 2: Absence of a satisfactory alternative

Please tick the following where it applies and add a comment below to support the recommendation:

The applicant has provided satisfactory evidence that alternative solutions have been considered and have given reasons why the proposed approach is the only satisfactory alternative:	Yes	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion.

In demonstrating an assessment of the best relevant scientific and technical evidence, circumstances of the specific proposed development in compliance with the prohibitions laid down in the Habitats Directive, the EAU has reviewed documents provided by the applicant detailing the relative impact of all possible alternative solutions on the site of the proposed Dinis Loop raised boardwalk. The EAU has examined and considered supporting information provided by the applicant, notably the following:

- Supporting information prepared by the applicant's consultants MWP providing a general overview and description of the route options considered for the safe separation of vehicular traffic, cyclists and pedestrians along the Dinis Loop at Muckross Road N71. A map was also provided showing route options listed A – D (Appendix C)
- A report prepared by a NPWS Regional Ecologist (Kerry Region) providing an overview of necessary comparisons and an evaluation of the feasibility of alternatives solutions at the location (Appendix G). The report describes alternative locations of the project, different development scales and designs, alternative layouts and the implications for pedestrian/cyclist management options. Ecological, economic and social pros and cons have been considered and an optimal route is identified for this specific case.
- A report prepared by an accredited and suitably qualified Ecologist with Bryological expertise, which shows the locations of species listed on the Flora (Protection) Order 2015 within a survey area encompassing habitats north and south of the N71 between the Dinis Car Park and Torc (Cardiac Hill) Car Park. Under the Order, it is illegal to cut, uproot or damage the listed species in any way. It is illegal to alter, damage or interfere in any way with their habitats. This protection applies wherever the plants are found and is not confined to sites designated for nature conservation. Locations of species also listed on the Bryophyte Red List within the survey area are also provided. The presence of these protected species is a factor in assessing route feasibility options. This report is not provided publicly as an Appendix due to the sensitivity of ecological data.
- Supporting information prepared by the applicant's consultants MWP providing an appraisal of an alternative solution involving a floating boardwalk option (Appendix H). The appraisal draws on an in person assessment of an existing 600 metre floating pontoon/boardwalk at Acres Lake, part of the Shannon Blueway at Drumshanbo, County Leitrim. At Acres Lake, vertical piling provides secure anchorage to the pontoon allowing vertical movement as water levels fluctuate. Water levels at this location are however controlled by weirs, locks and sluice gates operated by Waterways Ireland, maintaining a fluctuation of c. 50 cm. By comparison, the highly variable, natural and unpredictable water level fluctuations, lake volume and storage capacity within Muckross Lake (several metres) represent engineering, constructability and accessibility constraints with this type of design alternative solution. Office of Public Work data is provided of historical and contemporary mean day water levels within Muckross Lake as evidence of the water level fluctuations. Topographical constraints at the location are also cited as a factor in assessing the viability of this design option.
- Supporting information prepared by the applicant's consultants MWP providing detailed topographical survey of the site area encompassing all of the considered route options, including spot levels, contours, tree locations, rock features, roadway layout, paths and shoreline position (Appendix I). The topographical conditions, in combination with the water

level fluctuations would require extensive access and egress ramp transitions to achieve boardwalk accessibility in all water level scenarios. This would require piling in both sensitive aquatic and terrestrial habitats.

- Supporting information prepared by the applicant's consultants MWP providing an analysis of alternative solutions based on considerations related to the following factors (Appendix J):
 - The requirement for a derogation for Kerry Slug.
 - Environmental and Ecological receptors and negative impacts associated with each alternative solution.
 - Health and Safety.
 - Visual Impact.
 - Usability/Universal Access.
 - Buildability.
 - Estimated high level costs for each option.
- Supporting information prepared by the applicant's consultants MWP accompanying the application for a derogation (Appendix K) which states the activities under derogation are limited in time (translocation within a specific, defined area and subject to provisions of the Wildlife Acts), place (Description of Project), numbers of specimens involved (Baseline data and Field Study), persons authorised (Statement of Competency and Clerk of Works).

In ascertaining whether another alternative solution exists for the translocation of Kerry Slug and the damage to habitat supporting this species at the location, ecological, economic and social considerations have been taken into account. In view of the analysis summary provided (Appendix J), there is a stateable rationale and clear pros and cons for each route option have been demonstrated.

The analysis summary of route options (Appendix J) demonstrates that potential alternatives to the raised boardwalk option are not satisfactory, because they are environmentally and/or technically unfeasible. There is no alternative solution, design or construction methodology that would not require a derogation for Kerry Slug. Each option would result in negative impacts on habitat suitable for this species at the location and/or other Annex I habitats. The only option that does not require a derogation is the "do nothing scenario" which does not solve the public health and safety problem. The EAU has examined options that involve alternative locations for the proposed development, different development scales and designs, alternative activities, processes and methods and have made necessary comparisons to evaluate alternative solutions.

EAU are of the opinion that grounds on which other prima facie satisfactory solutions cannot be adopted has been demonstrated. There are no satisfactory alternatives to the raised boardwalk design that can achieve the objective pursued, taking account in particular of the best relevant scientific and technical evidence, in the light of the ecological receptors at this specific location and in compliance with the prohibitions laid down in the Habitats Directive. The EAU have also taken into account proportionality in terms of cost. No alternative solutions have been rejected due to economic cost being the sole determining factor.

The EAU have undertaken an analysis of pros and cons in view of the potential negative effects of the possible solutions as well as options and tools to annul or minimise any negative effects (Appendix A and K). The net result, in terms of solving the problem while avoiding or minimising secondary effects, weighed against the effects of a derogation, and taking into account the overall objective of the Habitats Directive, is that the raised boardwalk design is the least drastic means necessary to achieve the public health and safety objective and that the use of the derogation can be justified.

The EAU has undertaken a well-documented assessment of the relative impact of all possible alternative solutions on the site concerned and that the most appropriate option for which the derogation is sought (raised boardwalk) ensures the best protection of the species while solving the public health and safety issue.

Test 3: Impact of a derogation on conservation status of the species

Please tick the following where it applies and add a comment below to support the recommendation:

The derogation would NOT be detrimental to the maintenance of the populations of the species in question at a favourable conservation status in their natural range.	Yes	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion. (If you wish to add additional, conditions please complete this section):

The net result on the Kerry Slug conservation status from granting the derogation for the translocation of individuals to suitable adjacent habitat outside the development footprint is considered neutral. The net result from granting the derogation to include the damage/movement of boulders, tree limbs and dead wood is considered detrimental, temporarily in the short-term, and neutral in the long term, with Kerry Slug capable of recolonising the habitat beneath the raised boardwalk structure post development.

The scale of the EAU assessment considers local to national status of Kerry Slug. Contemporary data of the local population within the footprint of the proposed development has been estimated through baseline surveys. Ecological surveys recorded a total of 11 individual Kerry Slugs at the location (Appendix A and K).

Data on the national conservation status of Kerry Slug is detailed in the National Parks and Wildlife Service Article 17 assessment (NPWS 2019). This states an estimated natural range of Kerry Slug in the Member State as 5,600 km² with both the short-term trend (2007 – 2018) and long-term trend (1994 – 2018) in range being assessed as increasing. There is good evidence of range expansion on the eastern edge of the previously assessed range in North Kerry and West Cork. The species is also recorded expanding its range on the Dingle Peninsula and in North Kerry.

No regional or national population estimate exists for Kerry Slug, nor is it likely one will ever be produced due to the practical difficulties in estimating numbers of this rapidly reproducing and cryptic species of invertebrate.

Regionally, the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC is one of 7 European Sites designated for Kerry Slug. The SAC network for this Qualifying Interest comprises 108 1km x 1km squares of this species natural range in the Member State.

The national population is estimated on the basis of occupied 1km x 1km squares nationally. The best minimum estimate is that Kerry Slug populates 151 1km squares in the Member State. Minimum estimates of population trends are based on expert opinion with both the short-term trend (2007 – 2018) and long-term trend (1994 – 2018) in population being assessed as increasing. Future prospects nationally for Kerry Slug, range, population and habitat are good and the species has a favourable conservation status.

The impact of the specific derogation has to be at a lower level than the territory of the Member State in order to be meaningful in ecological terms. The population to be impacted is estimated at 11 individuals (at the 1km resolution) compared to the national population supported within 151 1km occupied squares.

The EAU is of the opinion the proposed derogation individually would not be detrimental to the maintenance of the population of Kerry Slug at a favourable conservation status in their natural range.

The EAU have reviewed and considered the granting of derogations for Kerry Slug at the Member State level to avoid the risk that the sum of the derogations may result in detrimental effects to the conservation status of the populations of this species in their (national) natural range. Derogations issued in 2025 are publicly available on the Departments website² and have been examined. Three derogations have been issued in 2025, all 3 are for the translocations of individuals only at the local level for the purposes of development.

- NPWS Derogation Reference: DER-Kerry Slug-2025-01 at existing Kilgarvan Windfarm, County Kerry (local population level).
- NPWS Derogation Reference: DER-Kerry Slug 2025-02 translocation of individuals from one stone wall within footprint of South Kerry Greenway (Kilkeehagh, Gleensk & Gortaforia), County Kerry (local population level).
- NPWS Derogation Reference: DER-Kerry Slug-2025-03 at Carrigarierk, Clogher, County Cork (local population level).

The EAU is of the opinion the proposed derogation individually and in combination with existing derogations would not be detrimental to the maintenance of the population of Kerry Slug at a favourable conservation status in their natural range.

The EAU have also considered that requisite (appropriate, effective and verifiable) measures have been established, implemented and enforced effectively for Kerry Slug in Ireland through a Regulation 39 Threat Response Plan. This species action plan has been adopted to ensure its strict protection and that this species reaches a favourable conservation status³.

If the answer above is Yes then the derogation may be granted, providing Tests 1 and 2 have also been met.

² <https://www.npws.ie/licensesandconsents/disturbance/application-for-derogation/derogations-issued-2025/kerry-slug>
Accessed 25th September 2025.

³ https://www.npws.ie/sites/default/files/publications/pdf/2010_Slug_TRP.pdf. Accessed 25th September 2025.

Derogation decision

The application for a derogation under Regulation 54A of the European Communities (Birds and Natural Habitats) Regulations, 2011-2021 (S.I. 293 of 2021) has been assessed by officials in the Ecological Assessment Unit 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**

The EAU does not stipulate specific conditions, restrictions, limitations or requirements beyond standard Wildlife Licensing Unit conditions attached to derogation licences. Notably these are typically:

- The local NPWS District Conservation Officer should be contacted prior to the commencement of any activity.
- Prior to any construction work which involves removal of areas of rock and natural vegetation that constitutes suitable Kerry Slug habitat, the area should be competently searched for the presence of Kerry Slug and any found should be removed for translocation.
- This removal work should commence one month before the start of any scheduled work.
- Kerry Slugs removed from the site should be translocated to a suitable area of habitat, this area to be approved in advance by NPWS.
- Where possible rocks that are used by Kerry Slugs should be removed intact and place within suitable translocation areas.
- All trapping and translocation work must be carried out by a suitably qualified person.



Ryan Wilson-Parr

Head of Ecological Assessment

Department of Housing, Local Government and Heritage

26th September 2025