



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	Arthur	Moynihan
(b) Company Name, if applicable	Bord na Mona Powergen Limited	
(c) Address Line 1	Bord na Mona, Main Street	
Address Line 2		
Town	Newbridge	
County	Kildare	
Eircode	W12 XR59	
(d) Contact number	+353 45 439000	
(e) Email address	Arthur.moynihan@bnm.ie	
(f) Address where works are to be carried out if different from (b) above.		
Address Line 1	Bord na Mona Derrygreenagh Works	
Address Line 2	Derrygreenagh	
Town	Rochfortbridge	
County	Offaly	
Eircode	N91YX30	

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.	Emma	Boston
(b) Company Name	AECOM Ltd	
Address Line 1	The Clarence Street West Building	
Address Line 2	2 Clarence Street	
Town	Belfast	
County	Antrim	
Eircode	BT2 7GP	
(c) Contact number	+447799618624	
(d) Email address	emma.boston@aecom.com	
(e) Relationship to Applicant	Employee/Consultant	

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): | *Pipistrellus pygmaeus*;
Pipistrellus pipstrellus;
Plecotus auritus |

3. Please provide the maximum number of individuals affected* | 39 |

4. Please provide the maximum number of breeding or resting sites affected* | 6 roosts |

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.

| n/a |

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-2025-286 – licence return 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:	<u> 01/01/2026</u>
End Date:	<u> 30/12/2026</u>

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	<input type="checkbox"/>
Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	<input checked="" type="checkbox"/>
Deliberately take or destroy eggs of the relevant species in the wild	<input type="checkbox"/>
Damage or destroy a breeding or resting place of such an animal, or	<input type="checkbox"/>
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"/>
Regulation 52	
Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	<input type="checkbox"/>
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"/>

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

Part D: Derogation Tests

Note: The following summary 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 2a)	<input type="checkbox"/>
b.	To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property (proceed to 2b)	<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 (proceed to 2c)	<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 (proceed to 2d)	<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 (proceed to 2e)	<input type="checkbox"/>

2a. 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.

n/a

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

n/a

2b) 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.

n/a

2c) 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.)

n/a

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 Proposed Development which the works are required for comprises strategic power generation and distribution infrastructure that is being delivered in the public interest - to ensure security of electricity supply and support renewable electricity generation - by a semi-state body. It is recognised as a **Strategic Infrastructure Development** ('SID') by An Coimisiún Pleanála ('ACP').

The status of the Proposed Development as Strategic Infrastructure was confirmed by An Bord Pleanála (now An Coimisiún Pleanála, 'ACP') by notice dated 05 July 2023:

"Following consultations under Section 37B of the Planning and Development Act, 2000 as amended, the Board hereby serves notice under section 37B(4)(a) that it is of the opinion that the proposed development falls within the scope of paragraphs 37A(2)(a) (b) and (c) of the Act. Accordingly, the Board has decided that the proposed development would be strategic infrastructure within the meaning of Section 37A of the Planning and Development Act, as amended".

Paragraphs 37A(2)(a) (b) and (c) of the Planning and Development Act require that, for a development to qualify as SID, as well as being of a category and scale specified in the Seventh Schedule of the Act, it must satisfy one or more of the following requirements:

- (a) Be of strategic economic or social importance to the State or the region in which it would be situated
- (b) Contribute substantially to the fulfilment of any of the objectives of the NPF or RSES in force in respect of the area or areas in which it would be situated
- (c) Have a significant effect on the area of more than one planning authority

ACP has confirmed that the Proposed Development satisfies all of the above requirements. In its assessment of the SID status of the Proposed Development (Ref. ABP-315916-23), ACP notes that:

- Having regard to the Government Circular PL12/2021, which states that *"the development of new conventional generation...is a national priority and should be permitted and supported in order to ensure security of electricity supply and support the growth of renewable electricity generation"*, as well as the Climate Action Plan target to deliver at least 2GW of flexible gas-fired generation by 2030,
- *"the proposed development would be of strategic economic importance to the state and the region"*.

The Proposed Development would be consistent with the provisions of the NPF's National Strategic Outcome 8 ('Transition to a low carbon and climate resilient society') and would contribute substantially to the fulfilment of Regional Policy Objective 10.20 of the RSES, i.e.

- *"To support and facilitate the development of enhanced electricity supplies..., and associated networks, to serve the existing and future needs of the Region and facilitate new transmission infrastructure projects that might be brought forward in the lifetime of this Strategy"*.

We note that, under the European Commission's 'Guidance document on the strict protection of animal species of Community interest under the Habitats Directive' [C(2021 7301 Final)], "only public interests, promoted either by public or private bodies, can be balanced against the conservation aims of the Directive" (C2021 7301 Final, 3-31). The Proposed Development is clearly being advanced in the public interest.

The Commission's guidance goes on to state that *"in most cases, the public interest is likely to be overriding only if it is a long-term interest"* (C2021 7301 Final, 3-32). The Proposed Development is a long-term project, with an operational lifetime of at least 25 years. It will, quite clearly, serve a long-term public interest to ensure security of electricity supply and supporting increased renewable electricity generation. It therefore can be considered an *overriding* public interest.

The Proposed Development for which the works are required is demonstrably:

- in the long-term public interest; and
- of strategic economic importance to the State and the Region

It will, furthermore, deliver significant social benefits, including:

- major capital investment in the local and regional economy

- up to 750 construction phase jobs as well as supply chain opportunities for local businesses
- long term employment during the operational phase, with up to 60 qualified personnel required for the operation, maintenance and management of the plant; and
- a substantial Community Benefit Fund to support local initiatives and projects.

It is of overriding public interest and therefore satisfies the requirements of Regulation 54(2) (c) of the European Communities (Birds and Natural Habitats) Regulations.

Please refer to Supporting Statement for detailed response on this Test.

2d) 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

n/a

2e) 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.

n/a

- 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.

n/a

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	<p>The Proposed Development could not be constructed or operated at this location without the works for which a derogation is required.</p> <p>Please refer to Supporting Statement for detailed response on this Test.</p>
At an alternative location	<p>The derogation is necessary because the Proposed Development - which is a project of overriding public interest, specifically for security of electricity supply and supporting national renewable energy targets - cannot be delivered at an alternative location and cannot be delivered on the Proposed Development site without affecting protected species and their breeding/resting places. As required by Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations, the project must demonstrate that no satisfactory alternative exists. This was examined in detail through the Environmental Impact Assessment Report (EIAR) process which considered alternatives (Refer to Chapter 3 of the submitted EIAR, AECOM 2023). The Proposed Development site is a brownfield location of appropriate scale that is within the control of the Applicant and proximate to key infrastructure including electricity and gas transmission networks and the national road network. It has been determined to be the only feasible option that met the site-specific technical requirements while minimising overall environmental impact.</p> <p>Please refer to Supporting Statement for detailed response on this Test.</p>

* 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.

This derogation licence application relates to the request to demolish two buildings and a structure which host 5 bat roosts (1 maternity colony of soprano pipistrelle, and 4 occasional roosts of soprano pipistrelle, common pipistrelle and brown long eared bat. And the disturbance during construction of another soprano pipistrelle maternity roost within a bridge. In total 39 individuals are anticipated to be impacted. The site is at present an industrial one, with the 4 occasional roosts within office buildings associated with the power plant, and a soprano maternity colony in a storage box (B4a) adjacent to these buildings. This maternity roost location is unusual, and not an ideal given that this is a temporary storage box (i.e. not a fixed structure) open to accidental disturbance.

The evidence that the proposed mitigation measures, which include the timing of works, and the provision of alternative roosting sites in bat boxes, will not harm the affected bat populations relies on internationally recognised best practices. The EIAR has detailed mitigation measures to ensure no bats are injured and disturbance is minimised. The primary measure is the provision of alternative roosting habitats which are required to be installed prior to the commencement of construction. The success of this type of compensation has been studied in Ireland and the UK, with evidence indicating that while success varies, the provision of replacement roosting features especially bat boxes mounted externally on buildings, is a successful method for retaining bat presence at affected sites. This mitigation measure adheres to best-practice guidelines for bat surveys and mitigation in Ireland. Furthermore, the mandatory appointment of an ECoW to supervise all destructive works and adhere to strict timing restrictions reinforces the commitment to maintaining the species' Favourable Conservation Status (FCS).

Please refer to Supporting Statement for detailed response on this Test.

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

02/12/2025

Name in BLOCK LETTERS

DR. EMMA BOSTON

PRIVACY STATEMENT

See Privacy Statement at www.npws.ie/licences

npws.ie

Department of Housing, Local Government and Heritage



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