



- **Lesser Horseshoe Bat** **Rhinolophus Hipposideros**



Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Feirm Bran, Fermoy West, Gleninagh/Fanore/Burren, County Clare (Folio CE23454)** for **Petr Luksan**
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 **BAT**. Anything done other than in accordance with the terms of this derogation may constitute an offence
3. This derogation may be modified or revoked, for stated reasons, at any time.
4. The mitigation measures outlined in the application report (**Bat Roost Survey and Assessment**
5. **Dwelling at Fermoy West Fanore Co. Clare**) 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 **1st January – 30th April, inclusive.**
7. The works will be supervised by bat ecologist(s): **Karen Banks.**
8. In addition, sound-proofing must be included in the ceiling below the roost space/above the bedrooms. The type and extent of sound-proofing should follow the specifications in the VWT's Lesser Horseshoe Bat Conservation Handbook (Schofield 2025, 2nd edition, Pg 69).
9. 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.
10. 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.
11. This derogation shall be produced for inspection on a request being made on that behalf by a member of An Garda Síochána or an authorised NPWS officer appointed under Regulation 4 of the Habitats Regulations.
12. The local **NPWS District Conservation Officer – David Lyons**, davida.lyons@npws.gov.ie, must be contacted prior to the commencement of any activity, and if bats are detected on site during the course of the work, under the terms of this derogation.
13. On completion of the actions which this derogation authorises, all recordings of bat species affected will be made using the standardised Returns form and must be submitted to the NPWS **within four weeks of the expiry date of this derogation.** Included with the Returns form, a report will also be submitted to wildlife.reports@npws.gov.ie detailing results of works and success of mitigation. **Both documents must be submitted to constitute a derogation return.**



NPWS

An tSeirbhís Páirceanna
Náisiúnta agus Fiadhúlra
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 November 2025

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





Derogation Assessment

Name of Applicant: Petr Luksan

Location/Name of Project: Feirm Bran, Fermoy West, County Clare (Folio CE23454)

Tick the following prohibition as chosen on the application:

(a) Deliberately capture or kill any specimen of the relevant species in the wild	<input 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

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

(a) In the interests of protecting wild flora and fauna and conserving natural habitats,	<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"/>



ii. 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 application form and associated documentation provided by the applicant has been reviewed in full. The application relies on regulation 54(2)(c) *'in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'* as the reason chosen for a derogation that they believe applies to the proposed activity.

In the detail provided, it is clear that the applicants are relying on the imperative reasons of overriding public interest, including those of a social or economic nature aspect of Reason C.

As outlined on page three of the accompanying report the derogation is required to facilitate proposed works at Fermoy West, Fanore, Co. Clare. The works involve the renovation and extension of a derelict cottage to fulfil a housing need and provide a family home. The provision of housing in Ireland is at a critical juncture and the public interest of same can be balanced against the conservation aims of the Directive.

The applicants have provided evidence as to the nature and scale of the public interest including those of a social or economic nature for the proposed works and the proposed activity is necessary to achieve these overall objectives. Based on the above this application has passed Test 1 and can now proceed to Test 2. |



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 (If you wish to add additional conditions please complete pg. 6):

The documentation submitted by the applicant has been reviewed, including the evidence for alternative solutions.

The purpose of the derogation is to allow the following activity to take place: The renovation and extension of an existing derelict cottage to provide a dwelling.

The specific situation that needs to be addressed is the disturbance and potential loss of an existing Lesser Horseshoe Bat roost in the loft space of the building.

The alternative solutions suggested by the applicant are: *[List below options given by the applicant and assess whether these solutions resolve, or could reasonably be expected to resolve, the situation. If an alternative solution does not resolve the situation, then it may not be considered viable. Where a solution is partially effective, even if it does not sufficiently address the problem, but it can still reduce or mitigate the problem, it should be implemented first.]*

1. “Do-Nothing” scenario – “Alternative solutions considered included not refurbishing the dwelling (i.e. ‘do-nothing’). However, that option is not feasible as the dwelling is falling into disrepair, if nothing is done it will fall further into disrepair and will not be habitable by either bats or humans. Its renovation is required to provide a family home on family-owned agricultural land” – The assessment is accepted. The cottage is in increasingly poor condition and if nothing is done it will further deteriorate and become unusable as a roost.
2. Alternative 1 - Alternative location: *No other suitable or available properties in the immediate area meet the location need (proximity to agricultural land) and affordability requirements. Moving to another area would sever family and community connections, contrary to local policy on sustaining rural communities* – This assessment is accepted.
3. Alternative 2 – Alternative design: *“The proposed dwelling refurbishment and extension has been designed in accordance with Marnell et al (2022) and Schofield (2008) to incorporate features suitable for roosting lesser horseshoe bat as well as the provision of a family home”* – It is accepted that the design of the loft area is in line with expert guidance. However the “provision of a family home” is not relevant to this statement.
4. Alternative 3 - Alternative timing: *“Delaying works is not viable due to urgent housing need. Delays would risk further deterioration of the structure and would likely result in a continual rapid deterioration of the suitability of the property for roosting bats, as evidenced by the reduction in summer roosting numbers”* – This assessment is accepted.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 14 of the accompanying report a number of alternative solutions, including the “do-nothing alternative” were examined by the applicant.

Based on the assessment of the application documentation, it is regarded that the applicant has considered all available alternative solutions and at this time no other alternative solutions are apparent. It is noted that the provision of an alternative roost structure was not considered. However, the Department is satisfied that the location of a maternity roost in close proximity (130 metres) coupled with the rapid deterioration of the structure and the low numbers using the loft space allows for the proposed mitigation to be acceptable in this instance.

Having weighed the possible solutions to solve the applicant’s problem against the effects of a derogation on the species concerned, it is concluded that the application has passed Test 2 and can proceed to Test 3. |

Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.



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 pg. 6)

The building in question supports a small roost of lesser horseshoe bats. This is likely to be a satellite roost for another nearby roost. This species is listed on Annex II of the Habitats Directive and recently assessed as being in unfavourable conservation status. Significant mitigation will be needed to minimise the impact of the proposed development on the bats. Detailed measures are included in the bat report accompanying the application. These explain how works will be timed to avoid disturbing the bats; how the bats will be accommodated in the attic of the renovated and extended building; how a dedicated entrance will be provided for the bats; and lighting will be designed to have minimal impact on the bats flight paths. All of these measures will need to be implemented. Nonetheless, there are very few examples of LHB co-habiting with humans. And for that to happen in the current case I believe that additional sound-proofing will be needed in the ceiling below the roost space/above the bedrooms. This recommendation is included in Schofield (2008) and again in the 2nd edition of that Handbook (Schofield 2025) with slightly modified details. That publication also provides specifications of the type and extent of sound-proofing required. If all of these mitigation measures are followed correctly and explicitly then we can be confident that best practise is being implemented and hence we can have some confidence that the proposed roost space may work. On such a basis we can conclude that the works would have no significant impact on the conservation status of the bats.

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

Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.



Derogation decision

The application for a derogation under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as amended, has been assessed by officials in the Department and the following decision has been made:

Tick box where appropriate:

There is no satisfactory alternative

☒

and the derogation is not detrimental to the maintenance of the populations of the species to which the Habitats Directive relates at a favourable conservation status in their natural range.

☒

Therefore, a derogation may be granted to the applicant, since it is—

(a) in the interests of protecting wild fauna and flora and conserving natural habitats

☐

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

☐

(c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment,

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(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 following conditions should be attached to the derogation:

1. All of the mitigation measures included in the bat report should be implemented.
2. In addition, sound-proofing must be included in the ceiling below the roost space/above the bedrooms. The type and extent of sound-proofing should follow the specifications in the VWT's Lesser Horseshoe Bat Conservation Handbook (Schofield 2025, 2nd edition, Pg 69).

Signed: .

Date: November 26, 2025

Position: Ecologist