



NPWS

An tSeirbhís Páircenna
Náisiúnta agus Fíadhúla
National Parks and Wildlife
Service

**Derogation Number
DER-BAT-2026-14 (amended)**

**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 **Neil Fitzgibbon of Curaheen, Tralee, County Kerry, V92 EH6E** 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 **bats** referred to below at a favourable conservation status in their natural range.

This derogation authorises the following:

1. Roost disturbance
2. Actions authorised within the derogation

The derogation is issued in respect of the following **bat species**:

- **Common Pipistrelle** **Pipistrellus Pipistrellus**
- **Soprano Pipistrelle** **Pipistrellus Pygmaeus**
- **Leisler’s Bat** **Nycatalus Leisler**
- **Brown Long-Eared Bat** **Plecotus Auritus**



Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Tralee Racecourse, Ballybeggan, County Kerry for Neil Fitzgibbon**
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 (**Supporting Information – Proposed**
5. **Demolition at Ballybeggan, Tralee, 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 **1st January – 31st December 2026, inclusive**
7. The works will be supervised by bat ecologist(s): **Fiona McKenna and Orla van der Noll**.
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. 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.
11. The local **NPWS District Conservation Officer – William Hunt**, william.hunt@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.
12. 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.**



For the Minister for Housing, Local Government & Heritage

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

10 March 2026

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





Derogation Assessment

Name of Applicant: Neil Fitzgibbon

Location/Name of Project: Tralee Racecourse, Ballybeggan, Tralee, 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 type="checkbox"/>
(b) Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	<input checked="" 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 interests of public health and public safety aspect of reason C. As outlined on page three of the supporting documentation, the proposed works at the old racecourse in Ballybeggan, Tralee, Co. Kerry involve the demolition of a number of buildings, which are in various states of disrepair in advance of a planning application to Kerry County Council.

It is noted that following an inspection by a structural engineer that the buildings are in a poor condition and unsafe. Access to the site is controlled and requires security but poses a risk to members of the public who may access the site. It is therefore recommended that the buildings are demolished and materials be safely removed from site.

The applicants have provided evidence as to the nature and scale of the Health and Safety aspect 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 applicant has proposed to demolish derelict buildings in advanced state of disrepair. Several of these buildings have been used by a small number of four different bat species, each of which are considered to have a favourable conservation status under the most recently available Article 17 reporting. Under Section 10 of the application, the applicant has selected option 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”. Having reviewed the application and noting the proposed works, and having knowledge of the species conservation status, I believe the reasons for the derogation are consistent with this option.

A detailed report has been supplied, outlining the current condition of the buildings on site. A report also outlined the survey methodologies used to detect the present of bats, and it identified the existence of bat roosts, and the potential suitability of each structure as bat roost. The images supplied in the report clearly depict a decline in the structural integrity of the buildings. The buildings being left as they are will continue to degrade. A “do nothing” approach will pose a risk to public health and safety. In addition, structural decline of these buildings will lead to them eventually becoming unsuitable to support bat roosts due to water, light, and wind ingress.

Providing the mitigation measures outlined in the report are followed I am satisfied that this will have no significant impact on the conservation status of the identified species of bat located in the development site and surrounds

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)

Small numbers of several bat species were found to be roosting in various buildings on site. The species in question (soprano and common pipistrelles, Leisler’s bats and brown long-eared bats) are all common and widespread in Ireland. All these species are in favourable conservation status. Proportionate mitigation has been designed and providing these measures are implemented I am satisfied that there should be no significant impact on the conservation status of bat species in the area

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,
- (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:

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Signed: .

Date: March 10, 2026

Position: Ecologist