



NPWS

An tSeirbhís Páirceanna
Náisiúnta agus Fíadhúlra
National Parks and Wildlife
Service

**Derogation Number
DER-BAT-2026-140**

**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 **Sean O’Sullivan of Kerry County Council, Kerry National Roads Office & Greenway Unit, The Island Centre, Castleisland, County Kerry, V92 TOCP** 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**:

- **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 **South Kerry Greenway, Kilkeehagh (Glenbeigh), Glensk and Gortaforia (Kells), County Kerry** for **Sean O’Sullivan**
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. In addition, the Minister reserves the right to revoke the derogation where updated information indicates that the basis upon which the derogation was granted has materially changed.
4. The mitigation measures outlined in the application report (**Ecological Report to Inform an Application for Derogation Licence Under the European Communities (Birds and Natural Habitats) Regulations 2011–2021 pertaining to Lesser Horseshoe Bat (Rhinolophus hipposideros)**) 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.
5. The actions which this derogation authorise shall be completed between **26th February – 31st December 2026, inclusive**.
6. The works will be supervised by bat ecologist(s): **Timothy McCarthy**
7. 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.
8. 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.
9. 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.
10. The local **NPWS Conservation Ranger – Jean Hamilton**, jean.hamilton@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.
11. 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 Páircenna
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 February 2026

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





Derogation Assessment

Name of Applicant: Sean O’Sullivan

Location/Name of Project: South Kerry Greenway (Bats)

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 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 five of the accompanying report titled “Supporting information document”, the derogation is required to assist with proposed works pertaining to the South Kerry Greenway (SKG).

The purpose of the proposed works is the completion of the SKG, a 27km long trail stretching from Caherciveen, to the village of Glenbeigh, comprising a two-way shared cycling and walking route for use by both walkers and cyclists. The report outlines on pages 11 – 14 a number of objectives for the SKG including but not limited to the increase of tourism and associated economic activity, sustaining the local population through the provision of employment and demand for local produce, health and wellbeing and environmental awareness.

The report also notes the SKG has “the full backing of National Policy and the support of KCC and Transport Infrastructure Ireland (TII).” and the project “is of a significant scale and importance in terms of social, economic, heritage and tourism for the region”.

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 application form and associated documentation provided by the applicant has been reviewed in full. The applicant has listed a number of alternative solutions in their supporting document, including Do-nothing, Proceed without mitigation and alternative design options. The applicant has provided satisfactory evidence that alternative solutions have been considered and have given reasons why the proposed approach is the only satisfactory option.

The Do-nothing scenario is unsatisfactory, as it would prevent the SKG project from going ahead. As per Test 1 above, this project is required for imperative reasons of overriding public interest, including those of a social or economic nature.

The applicant also considered a “No mitigation” scenario. This would not be satisfactory, as previous surveys in the area for which this derogation is sought have identified LHB within both Griffins Cottage and the Drung Hill Tunnels. As such, if the project were to proceed it could negatively impact LHB populations in the local area.

As regards alternative options, it is of note that the mitigation was designed in consultation with Dr. Tina Aughney, who has significant relevant experience in the design of Lesser Horseshoe Bat mitigation for large infrastructural projects. I am confident that the mitigation which has been designed is the best solution.

The applicant has also listed alternative design options, making note of the fact that the route of the SKG has already been altered so as to retain Griffin’s Cottage and the bat roost.

The applicant has also described design alternatives for the Drung Hill tunnels, but has provided good reasons as to why these options would not be viable.

The applicants have provided evidence as to the consideration of alternative options for this project, and have given good reasons as to why this option was selected. Based on the above, this application has passed Test 2 and can now 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 sites in question support a maternity roost of lesser horseshoe bats as well as potential hibernation areas for this bat. The species is not in favourable conservation status.

Given the mitigation outlined in the supporting information document and that the majority of the works are for habitat enhancement, it can be determined that while the permitted project may cause minor short term disturbance to Lesser Horseshoe Bat in the area, in the medium and long term it will result in positive effects on the local population. The proposed mitigation will result in significant enhancement of the roosting habitats at both Griffins Cottage and in the Drung Hill Tunnels.

Provided the mitigation measures are implemented in full, I am satisfied that the works will not be detrimental to the maintenance of the populations of the species in question at a favourable conservation status in their natural range.

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:

- 1.
- 2.
- 3.
- 4.

[add additional conditions where required]

Signed:

Date: February 26, 2026

Position: Ecologist