



**NPWS**

An tSeirbhís Páircenna  
Náisiúnta agus Fíadhúla  
National Parks and Wildlife  
Service

**Derogation Number  
DER-BAT-2026-141**

**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 **Conor Rhatigan of Winterbrook Limited, Ashgrove Works, Dun Laoghaire, County Dublin, A96 V8C2** 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**:

- **Soprano Pipistrelle**                      **Pipistrellus Pygmaeus**



### Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Mount Saint Marys, Dundrum Road, Dublin 14, D14 P9P3** for **Conor Rhatigan**
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 (**Supporting Document for Residential Development at Mount Saint Mary's, Dundrum Road, Dublin.**) 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 **5<sup>th</sup> March 2026 – 31<sup>st</sup> December 2027, inclusive.**
6. The works will be supervised by bat ecologist(s): **Bryan Deegan**
7. The derogation does not provide consent to proceed with any works that may also be subject to another approval (for example, planning permission).
8. The derogation is based upon information provided in the application. Where this information may cease to be accurate due to the passage of time or changes to the circumstances giving rise to the need for the derogation, the derogation holder is responsible for notifying the NPWS.
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 Conservation Ranger – Sean Meehan**, [sean.meehan@npws.gov.ie](mailto:sean.meehan@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 of the derogation or the 31<sup>st</sup> January each year**, should the derogation run for longer than one calendar year. Additionally a report will also be submitted detailing results of works and success of mitigation. **Both documents must be submitted to constitute a derogation return** and should be submitted to [wildlife.reports@npws.gov.ie](mailto:wildlife.reports@npws.gov.ie)



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**For the Minister for Housing, Local Government & Heritage**

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

**05 March 2026**

Any query in relation to this derogation should be sent to [reg54derogations@npws.gov.ie](mailto:reg54derogations@npws.gov.ie)





### Derogation Assessment

**Name of Applicant: Conor Rhatigan**

**Location/Name of Project: Mount Saint Marys, Dundrum Road, Dublin 14, D14 P9P3**

**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 four of the accompanying report titled “Supporting Document for Residential Development”, a derogation is required to assist with proposed works at Mount Saint Marys, Dundrum Road, Dublin 14.

The objective of the proposed works is the construction of 129 residential units and requires the removal of existing trees and vegetation, inclusive of an Ash tree along the boundary of the site that supports a confirmed bat roost. The report further outlines on page seven that the removal is necessary to facilitate access to the site and allow the approved building layouts.

The report also notes on page 12 that the proposed development will provide housing stock in an established urban area and in line with local and national planning policy objectives. It further outlines that the development will contribute “to the efficient use of serviced lands, support sustainable urban growth, and provide associated public realm and infrastructural improvements.”

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:

*Loss of a minor bat tree roost (Pipistrellus pygmaeus) at a residential development at Mount Saint Mary’s, Dundrum Road, Dublin 14, D14 P9P3.*

The specific situation that needs to be addressed is ‘the removal of a minor bat tree roost as the proposed works are necessary in the interests of public health and safety and the delivery of urgently needed housing’. The roost affected is of minor significance (< 5 individuals) and the proposed mitigation ensures that there will be no adverse impact on the conservation status of soprano pipistrelle or any other bat species. This will be achieved by the implementation of the mitigation measures as outlined on Page 8 of the accompanying Supporting Documentation, dated 09.01.2026.

The alternative solutions suggested by the applicant are:

**1. “Do-Nothing” scenario**

Under a “do nothing” scenario, the site at Mount Saint Mary’s, Dundrum Road, Dublin would remain in its existing condition and the proposed residential development would not proceed. This would result in the loss of an opportunity to deliver 129 residential units on a suitably zoned and serviced site within an established urban area. The associated public realm, infrastructure improvements, and contribution to local and national housing policy objectives would not be realised. While the Ash tree supporting the Soprano Pipistrelle (*Pipistrellus pygmaeus*) roost would remain in situ under this scenario, the do nothing option would fail to meet the planning and development objectives for the site and is therefore not considered a satisfactory alternative. The tree would likely continue to be used as a small opportunistic day roost.

*CR’s assessment – The development consists of the provision of 129 residential units, including duplexes and apartments within three buildings ranging from two to part six storeys, together with associated infrastructure such as public open space, car and cycle parking, and landscaping. The site of the development is suitably zoned and serviced and in a ‘do-nothing’ scenario, would go unused at a time of an urgent demand for housing.*

*The bat roost that will be lost is minor and is used by soprano pipistrelle, a species of favourable conservation status in Ireland.<sup>1</sup> The mitigation measures, including the provision of three bat boxes on the site, will compensate for the loss of the single tree in which the small roost is located.*

## **2. Alternative 1 – Avoiding the tree entirely**

Avoidance of impacts through retention of the roost tree is not feasible. The Soprano Pipistrelle roost is located within an Ash tree along the western boundary of the site that lies within the proposed development footprint. Retention of this tree would conflict with the approved site layout, building footprints, access arrangements, and associated infrastructure, and would compromise the design, safety, and functional requirements of the development. As such, avoidance of impacts to the roost through retention of the tree cannot be achieved without undermining the viability of the project.

*CR's assessment – This residential development is required at a time of a national housing shortage. Attempting to retain the single ash tree in which the roost is located is not feasible as it does not fit into the approved layout and configuration of the site. The overall site is limited in scope and in order to maximise the site's usage for housing and associated infrastructure, the tree will have to be removed. The mitigation measures for the loss of the small roost will compensate for the loss of this tree.*

## **3. Alternative 2 - Alternative Site Location**

Relocation of the proposed development to an alternative site is not considered a satisfactory alternative. The proposal is specific to this site, which is appropriately zoned and strategically located to accommodate residential development within the existing urban fabric. Development of an alternative site would not deliver the same planning, sustainability, or housing objectives, and extensive site selection at this stage would be impractical. Furthermore, relocating the development would undermine the purpose of utilising this serviced urban site for residential use.

*CR's assessment – To not pursue with the construction of 129no residential units on the basis of the presence of a minor roost for a common and widespread bat species is not appropriate in the current housing shortage and not in line with local and national housing policies. The implementation of the mitigation measures will provide alternative roosting habitat for bats post-construction, whilst still enabling the maximum number of residential units to be constructed on this site.*

## **Conclusion**

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered, including the “do-nothing alternative”. 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 or viable solutions are apparent.

The bat survey effort for the site that included dates in September 2024 and May 2025 is considered sufficient for the size and nature of the site. As per the mitigation measures, a pre-construction inspection of trees on the site will be carried out and the tree with the bat roost will be felled appropriately. This will help further reduce impacts on the local bat population.

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<sup>1</sup> Marnell, F., Looney, D. & Lawton, C. (2019) Ireland Red List No. 12: Terrestrial Mammals. National Parks and Wildlife Service, Department of the Culture, Heritage and the Gaeltacht, Dublin, Ireland).

The proposed mitigation, which includes the installation of three bat boxes, an appropriate lighting regime (BCT, 2018)<sup>2</sup> and a post-construction lighting assessment will allow the site to continue to provide roosting and foraging opportunities for bats post-construction. The development site is appropriately zoned and is needed to help address the national housing shortage. The mitigation measures are suitable and proportionate to compensate for the loss of the small roost whilst enabling the development to proceed.

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 should proceed to Test 3. |

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

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<sup>2</sup> Bat Conservation Trust (2018). Guidance Note 08/18 - Bats and artificial lighting in the UK. Institution of Lighting Professionals.



### 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)**

An ash tree on site supports a small roost of c 2 Soprano pipistrelle. This species is widespread and abundant in Ireland and is in favourable conservation status.

Suitable and proportionate mitigation measures have been proposed. It is concluded that with implementation of the proposed mitigation measures, this development will not be detrimental to the maintenance of populations of the species in question at a favourable conservation status within its 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: March 5, 2026

Position: Ecologist