NPWS An tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra National Parks and Wildlife Service

Derogation Number
DER-BAT-2026-178

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 **Finian Hanley** of **McHugh Property Holdings Ltd., 35-37 Dominick Street Lower, Galway, County Galway, H91 D2V4** 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 **Coolagh Road, Menlough, Galway, County Galway, H91 ET6N** for **Finian Hanley**
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 **(Bat Derogation Licence Supporting Document Student Accommodation at Coolagh Rd, Galway, Co. Galway)** 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 **1st November – 31st December 2026, inclusive.**
6. The works will be supervised by bat ecologist(s): **Aoife Joyce, Clare Misfud, Saoirse Fitzsimons, Nora Szijarto & Sara Fissolo**
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 Regional Manager – Rebecca Teesdale,** rebecca.teesdale@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.**

For the Minister for Housing, Local Government & Heritage

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

17 April 2026

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

National Parks & Wildlife Service
LICENCE

Derogation Assessment

Name of Applicant: Finian Hanley

Location/Name of Project: Coolagh Road, County Galway, H91 ET6N

Tick the following prohibition as chosen on the application:

(a) Deliberately capture or kill any specimen of the relevant species in the wild	☐
(b) Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	☒
(c) Deliberately take or destroy eggs of the relevant species in the wild	☐
(d) Damage or destroy a breeding or resting place of such an animal, or	☒
(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.	☐
(a) Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	☐
(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.	☐

Test 1: A reason(s) listed in Regulation 54 (a)-(e) applies to the proposed activity

i. Tick which reason <u>the applicant claims</u> should be applied to the derogation

(a) In the interests of protecting wild flora and fauna 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 re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including 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.	☐

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	☒
	No	☐

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 in the accompanying report, a derogation is required for proposed works at Coolagh Road, Galway, Co. Galway. The objective of the works involves the demolition of a number of structures on the site to facilitate the construction of a large-scale residential development for student accommodation.

The report further outlines on page 18 that this development will assist in meeting the demand for student accommodation in Galway as the student population is anticipated to increase over the coming years. The report notes the link between "student reliance on the private rental market which impacts the availability and supply for mainstream and social housing needs"; this development may help to lessen the demand for mainstream housing. This is also referenced in the Galway City Development Plan 2023-2029 that has a stated aim of increasing this type of accommodation.

The applicant has 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	☒
	No	☐

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 destruction of a resting (not breeding) place of a small roost (1 individual) of soprano pipistrelle (Pipistrellus pygmaeus) during demolition of three existing structures for site clearance for the consented development of a student village at Coolough Road, Galway City.

The alternative solutions suggested by the applicant are: firstly to do nothing and secondly to retain the structure in which the roost was identified.

1. "Do-Nothing" scenario: If the development were to not go ahead, the dwelling would remain in place and likely continue to be used as a low suitability roost. This would result in the lack of provision of student housing as outlined in Test 1 and is therefore considered an unsatisfactory alternative under Test 2. **This is not a viable option as it has already been outlined in Test 1 that the development of the student village is essential to assisting in meeting current and future demand for student housing in the City**.

2. Alternative 1: House retention. This option would encompass the retention of the existing one-off single house on site and the redevelopment of the remainder of the site. Several reasons have been given to show that this is not a feasible option, namely:

    - The subject site is zoned 'Residential' in the extant Galway City Development Plan 2023-2029 and is factored into the core strategy housing yield numbers for the City's development up to 2029.
    - The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities constitute Ministerial Guidelines under Section 28 of the Planning and Development Act 2000 (as amended). There is a renewed focus in the 2024 Guidelines on the renewal of existing settlements and on the interaction between residential density, housing standards and quality urban design and placemaking to support sustainable and compact growth. It is a policy and objective of these Guidelines that residential densities in the range 35 dph to 50 dph (net) shall generally be applied at suburban and urban extension locations in Galway, and that

densities of up to 100 dph (net) shall be open for consideration at 'accessible' suburban / urban extension locations.

- The Urban Development and Building Heights Guidelines published by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), are intended to set out national planning policy guidelines on building heights in relation to urban areas. The Guidelines contain Specific Planning Policy Requirements (SPPR) that must be complied with by the relevant planning authority under Section 28 (1c) of the Planning and Development Act 2000 (as amended). The requirement to Page 11 comply with SPPRs has been established in recent case law following the judgement of Conway v An Bord Pleanála & Ors [2023] IEHC 178. It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure: the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000.

Based on the above, this is not a viable option as constructing the student village development around the existing structure that hosts the roost would make the development contrary to the current CDP and other planning guidelines.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 19 of the accompanying report two 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.

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

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

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	☒
	No	☐

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)

A small soprano pipistrelle roost is present within one of the buildings on site. This species is widespread and abundant in Ireland and is in favourable conservation status. This species is also adaptable and quick to occupy new roosting features.

Suitable and proportionate mitigation has been proposed, including the erection of bat boxes and sensitive lighting.

Providing these mitigation measures are implemented, 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.

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

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

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: April 17, 2026

Position: Ecologist