



NPWS

An tSeirbhís Páirceanna
Náisiúnta agus Fiadhúlra
National Parks and Wildlife Service

Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **location for Kevin Cotter**
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 Bat derogation license for Proposed Residential Development on Lands at Confey, Leixlip, Co. Kildare.**) 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 **22nd May 2026 – 31st 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 Regional Manager – Roy Thompson**, roy.thompson@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.**



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For the Minister for Housing, Local Government & Heritage

Fiona O' Mahony.

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

22 May 2026

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





Derogation Assessment

Name of Applicant: Kevin Cotter

Location/Name of Project: One Royal Canal House, D15 DKW4

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 in the accompanying report titled “Supporting Bat derogation license”, a derogation is required to facilitate proposed works at Confey, Leixlip, Co. Kildare.

The objective of the works is the construction of a large-scale residential scheme providing 305 residential units, a childcare facility, commercial/retail units and a pub/café and will necessitate the removal of one tree on the site confirmed to support a bat roost.

The report further outlines that the scheme will provide economic and social benefits through the provision of housing, which will help to address local housing needs and help to create “a sustainable and integrated community”. The site is noted as being located within a designated development area and supports “national, regional and local planning policy objectives” which will assist in meeting housing demand and population growth. The provision of childcare and local services is anticipated to “contribute to long-term regional value”

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	<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: Destroy a breeding or resting place of such an animal – Regulation 51.

The specific situation that needs to be addressed is the loss of one tree confirmed to support a bat roost and the removal of other trees onsite, the ecological impact is considered to be localised and of low conservation significance. The confirmed roost is limited to a single common pipistrelle (*Pipistrellus pipistrellus sensu lato*) and does not represent a maternity or significant aggregation roost. The reason for the removal of the trees is to facilitate a proposed residential development.

The alternative solutions suggested by the applicant are:

1. “Do-Nothing” scenario - The site would remain undeveloped in the short term, retaining existing habitat and roosting features, including the Ash tree (T3) identified as supporting a single common pipistrelle (*Pipistrellus pipistrellus sensu lato*) roost. However, as the lands are zoned for residential development and form part of a wider growth area within Confey, it is highly likely that they would be developed for a similar purpose in the future. This option would therefore only delay, rather than prevent, the eventual loss of habitats, while also foregoing significant socio-economic benefits, including the provision of much-needed housing and associated community infrastructure.

If this option is chosen, it would allow the tree to be used as a roost, therefore good for the bat, however an Arborist report states that the tree is in poor condition and so is unlikely to provide shelter for bats for a long period. The “do nothing” option would merely delay the building of much-needed housing and not be in the public’s interest. There are other habitats and trees nearby for potential roosting and providing cover for foraging bats.

2. Alternative 1 - Alternative sites were considered in the context of planning policy and land availability; however, such sites may not be suitably zoned, serviced, or located to accommodate a



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development of this scale. The application site is located within an area designated for residential development, with access to existing infrastructure and road networks, making it a highly suitable and sustainable location. Development of an alternative greenfield site elsewhere would likely result in equal or greater environmental impacts and would not represent efficient or policy-compliant land use. Therefore, the chosen site represents the most appropriate location for the proposed development.

Alternative sites were considered; however, this site is already zoned for residential use with services nearby. This site is also suitable as it would likely have less environmental impacts than developing a new site.

3. Alternative 2 – Alternative layouts. The site layout has been developed and refined to minimise ecological impacts where feasible, including the integration of public open space, a linear park, and landscape planting to maintain ecological connectivity. Tree removal has been limited to those necessary to facilitate the development, infrastructure, and access requirements. The retention of the Ash tree (T3) containing the identified bat roost was considered; however, the arborist report identified T3 as being in poor condition and requiring felling on safety grounds, in addition to its location within the proposed development footprint. As such, the tree cannot be retained without compromising both public safety and the viability and functionality of the scheme. Consequently, alternative layouts were not capable of avoiding the loss of the identified roost while still achieving the project objectives.

Alternative layouts were considered, and this one was chosen as it was deemed to have to least impact ecologically on the site. The survey completed by the arborist stated that due to the poor condition of the tree it should be removed for public safety. The applicant has stated that they will put mitigation measures in place by building bat boxes and installing bat-sensitive lighting within the complex, along with replanting trees and hedging.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on pages 9 and 10 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.

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)

A small common pipistrelle roost (1 bat) is present within one of the trees due for felling on site. Common pipistrelles are widespread and abundant in Ireland and are in favourable conservation status. These species are also adaptable and quick to occupy new roosting features.

Suitable and proportionate mitigation has been proposed, including the provision of alternative roosts in the form of bat boxes. 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

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.



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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: May 22, 2026

Position: Ecologist