Derogation Number
DER-BAT-2026-315

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 **Eamonn Power** of **Riverpoint Construction Limited, 10th Floor, Lower Mallow Street, Limerick, V94 WC6A** 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**
- **Nathusius' pipistrelle** **Pipistrellus nathusii**
- **Leisler's Bat** **Nycatalus Leisleri**

Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Clonconane, Old Cratloe Road, Limerick, County Limerick (Grid Ref: -8.6682672 52.6809556)** for **Eamonn Power**
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 Survey Report Clonconane, Old Cratloe Road, Limerick)** 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 **24th September – 31st December 2026, inclusive.**
6. The works will be supervised by bat ecologist(s): **Jane Russell-O'Connor & Gerard Tobin (Helena Slattery under supervision)**
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 – Áine Lynch,** aine.lynch@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

Fiona O' Mahony.

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

24 September 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: Eamonn Power

Location/Name of Project: Clonconane, Old Cratloe Road, Limerick, County Limerick

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 the applicant claims 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 on page four of the accompanying report titled "Bat Survey Report" a derogation is required to facilitate proposed works in the townland of Clonconane, between the Old Cratloe Road and the Pass Road in Limerick.
The objective of the works involves the removal of several trees and hedgerows to facilitate the proposed phase 5 residential development on the site. The report notes the development consists of 99 units inclusive of social housing, green spaces, a biodiversity area and associated works. The report states without the proposed works construction "or which planning has been granted would be halted and a total re-design of the development and new application for planning would have to be made, resulting in significant delays and the reduction of the number of much needed houses to be built."
It is clear the applicants are also relying on the interests of public health and public safety aspect of Reason C. The report highlights the condition of the trees describing them as "structurally unstable and at risk of falling." The trees therefore pose a health and safety risk to construction personnel on the site who will be required to work within close proximity.
The applicant has provided evidence as to the nature and scale of the public health and public safety aspect and 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: Construction of housing development.
The specific situation that needs to be addressed is:
Two mature sycamore located along the north-west boundary of the Clonconane site have been assessed as structurally unstable and at risk of falling. They pose a significant safety risk to construction personnel who will be required to work in close proximity during the housing works. The trees' compromised condition, combined with height and lean, mean that any failure could result in serious injury to workers or damage to machinery and materials. As a result, the planned housing works cannot safely continue until the sycamores are removed. In addition to the sycamore, two hedgerow/treelines within the site must also be removed. Two hedgerows cut directly through the development, obstructing the formation of housing plots. Retaining either feature would prevent essential groundworks from proceeding and would compromise the safe and functional delivery of the permitted housing layout.
As these features support commuting, foraging and roosting opportunities for bats (approximately 10 Leisler's, 4 Nathusius' pipistrelle and 97 Common pipistrelle based on sonar readings), a derogation licence is required to permit their removal in accordance with wildlife legislation.

The alternative solutions suggested by the applicant are:
Do-Nothing 1:
The "do-nothing" option would prevent the commencement of the permitted housing works at Clonconane. The sycamores at the north-west boundary, along with two internal hedgerow/treelines,
are located directly within the footprint of the approved housing layout. The two sycamores are at risk from falling and are a danger for the health and safety of construction personnel and future homeowners. Retaining these features would obstruct essential groundworks, access routes, building positions, and could potentially cause harm from falling. As a result, the development could not proceed, preventing delivery of approved housing units and associated public benefits. This option is therefore not viable. Should the two sycamore trees be left then there would eventually be a loss of roosts as these trees would fall anyway.
Do-nothing 2:
If the derogation licences are not granted then the construction works for which planning has been granted would be halted and a total re-design of the development and new application for planning would have to be

made, resulting in significant delays and the reduction of the number of much needed houses to be built (including social housing).

Retain All Vegetation and Redesign the Housing Layout Around It:

Re-designing to retain the sycamores and the two hedgerow/treelines is not feasible. These features lie within areas designated for housing plots, internal roads, and service corridors. Any redesign would require significant reconfiguration of the layout, resulting in loss of units, non-compliance with planning requirements, and inefficient site use. Furthermore, the sycamores are structurally compromised and pose a safety risk to construction workers, meaning retention would not remove the hazard. This alternative is therefore unsatisfactory.

Retain Vegetation with Protective Fencing or Exclusion Zones:

Protective fencing or exclusion zones would not resolve the issues. The hedgerow/treelines physically obstruct the areas where foundations, utilities, and access roads must be installed. Their retention would prevent machinery and personnel from operating within required working zones. In addition, fencing cannot mitigate the safety risk posed by the unstable sycamore, as workers would still be required to operate within its fall radius. This option cannot provide a safe or functional working environment and is therefore unsuitable.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on pages 11-12 (15-16 of Bat report) 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	☒
	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)

Three bat species were identified utilising the trees due to the removed.

Although the proposed will remove the trees which have roosting locations, the provision oof a purpose-built bat house with internal and external roosting features will be created in close proximity to the site. This new permanent roosting feature will provide roosting opportunities for the species in question, as well as other bat species.

Provided the mitigation measures are implemented in full, 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: September 24, 2026

Position: Ecologist