**Derogation Number**
**DER-BAT-2026-318**

# 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 **Eoin Deffely** of **Glenveagh Homes, Block C, Maynooth Business Campus, Straffan Road, Maynooth, County Kildare, W23 F854** 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 **Kilnahue, Gorey, County Wexford** for **Eoin Deffely**
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 Large-Scale Residential Development (LRD) at Kilnahue, Gorey, Co. Wexford)** 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 **6th October 2026 – 31st December 2027, inclusive.**
6. The works will be supervised by bat ecologist(s): **Bryan Deegan**
7. Vegetation removal works in relation to the bat derogation should take place outside bird nesting season March 1st- 31st August.
8. A minimum provision of 40 numbered built-in integrated bat roost boxes to be included across the development. The recommended bat box is WoodStone Built-In Bat Tube SKU 11350. The boxes should be installed in 10 groups of 4, with the 4 units connected side by side to enhance suitability as maternity roost. These should be installed at least 4 metres above ground level (Ideally locate near eaves or gable apex). Avoid placing directly above doors, or balconies. Ensure a clear flight path to the entrance. Do not install in or near artificial lighting.
9. The derogation does not provide consent to proceed with any works that may also be subject to another approval (for example, planning permission).
10. 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.
11. 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.
12. 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.
13. The local **NPWS District Conservation Officer – John Griffin,** john.griffin@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.
14. 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 31st 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

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

Fiona O' Mahony.

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

**06 October 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: Eoin Deffely**
**Location/Name of Project: Kilnahue, Gorey, County Wexford**
**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 titled "Supporting Bat Derogation Licence" a derogation is required to facilitate proposed works at Kilnahue, Gorey, Co. Wexford.

The objective of the works involves the construction of a large-scale residential development comprising of 413 units and associated works. The report further outlines that the proposed development will provide a substantial number of residential units and contribute to "the delivery of much-needed housing at a time of significant housing demand within County Wexford and nationally". The report also notes the proposed development will support population growth within Gorey and Co. Wicklow and allow the "sustainable expansion of Gorey" in accordance with planning objectives. The works will improve overall road safety for drivers and provide pedestrians with a safer crossing option.

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 specific situation that needs to be addressed is the presence of a protected bat roost within the footprint of the development which will be impacted by the development and so a derogation has been applied for.

The alternative solutions suggested by the applicant are:

1. "Do-Nothing" scenario,

"The site would remain in its current condition and the proposed residential development and associated infrastructure would not be delivered. This would fail to address critical local and regional housing needs at a time of severe housing shortage and would represent an inefficient use of zoned and serviced urban land."

NPWS Comment. The do nothing scenario would result in no development at the site which would not provide housing in a time of a housing crises and where planning permission has already been granted. The bat roost would continue to exist as a place of rest for bats.

2. Alternative 1 Retention of the Roost Tree

"The option of retaining the oak tree supporting the bat roost was considered. However, the tree is located within the footprint of the required road widening works and associated visibility splays. The northern boundary of Kilnahue Lane is constrained by existing residential properties, meaning that the required widening can only be accommodated within the development site to the south. In addition, DMURS requires unobstructed visibility splays of 2.4 m × 59 m in both directions at this location to ensure safe operation of the development access and pedestrian crossing. Retention of the tree would obstruct the required sightlines and prevent compliance with both the planning condition and applicable road safety standards. Consequently, retention of the roost tree is not considered feasible"

NPWS Comment. Having considered the retention of the roost tree and the existing constraints of the local road with residential properties on the opposite side, and the detail provided in relation to the required visibility, road geometry etc. for this development as referred to above in order to comply with DMURS and the planning condition 3a which requires that the carriageway be increased to a minimum width of 6.0m., the applicant has adequately demonstrated that the retention of the roost tree is not possible and so a derogation is required. The retention of the roost tree is not viable as the works will not be able to proceed because the applicant is required to widen the road to comply with regulations.

3. Alternative 2 Alternative road design or Site Layout.

"Alternative road layouts and boundary treatments were examined to determine whether the road widening and visibility requirements could be achieved while retaining the roost tree. However, the extent of the carriageway widening and visibility splays is dictated by Condition 3(a), the geometry of Kilnahue Lane, and the requirements of DMURS. Given the fixed nature of the existing northern road boundary and adjacent residential properties, there is insufficient flexibility to relocate the carriageway or adjust the visibility envelope to avoid the tree. Any reduction in the visibility splays or carriageway width would result in non-compliance with the planning condition and road safety requirements"

NPWS Comment. As shown by the applicant an alternative road design or site layout is not feasible as planning permission has already been granted for this site with the condition from Wexford Co. Council that the carriageway be increased to a minimum width of 6.0m. A condition which necessitates the removal of vegetation on the site development side of the road. This is to improve intervisibility between motorists, pedestrians and cyclists at the proposed crossing location and provide a safer access arrangement for the development. Furthermore the applicant has shown that in order to comply with the national standard Design Manual for Urban Roads and Streets (DMURS) in relation to visibility splays and sightlines at junctions for road safety purposes, namely the provision of visibility splay of 2.4m x 59m at this development, vegetation removal is necessary at the location of the roost tree.

The applicant has thus provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on pages 10 and 11 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)**

A soprano pipistrelle roost is present within one of the trees due for felling on site. Soprano pipistrelles are widespread and abundant in Ireland and are in favourable conservation status. This species are also adaptable and quick to occupy new roosting features.

Suitable and proportionate mitigation has been proposed, including the provision of alternative roosts, sensitive lighting and retention of foraging areas. 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.

## 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. Vegetation removal works in relation to the bat derogation should take place outside bird nesting season March 1st-31st August.
2. The bat mitigation measures as outlined in the supporting document ''25-706 Gorey LRD Altemar Derogation Licence Supporting Information 01.07.2026'' should be enacted in full.
3. A minimum provision of 40 numbered built-in integrated bat roost boxes to be included across the development. The recommended bat box is WoodStone Built-In Bat Tube SKU 11350. The boxes should be installed in 10 groups of 4, with the 4 units connected side by side to enhance suitability as maternity roost. These should be installed at least 4 metres above ground level (Ideally locate near eaves or gable apex). Avoid placing directly above doors, or balconies. Ensure a clear flight path to the entrance. Do not install in or near artificial lighting.

Signed:  Date: October 6, 2026

Position: Ecologist