Derogation Number
DER-BAT-2026-320

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 **Paul O'Brien** of **2 Station Court, Station Road, Bennettsbridge, County Kilkenny** 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**
- **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 **Somerton House, Somerton Court, Graiguecullen, County Carlow** for **Paul O'Brien**
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 **(Somerton House, Graiguecullen, Co. Carlow)** 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): **Isabel Carr**
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 District Conservation Officer – Hazel Doyle,** hazel.doyle@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 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: Paul O'Brien

Location/Name of Project: Somerton House, Somerton Court, Graiguecullen, County Carlow

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 on page four of the accompanying report titled "Bat Survey Report" a derogation is required to facilitate proposed works at a site at Somerton House, Graiguecullen, Co. Carlow.

The objective of the works consists of the renovation of Somerton House to construct three apartments and associated works. The report further outlines the proposed development assists with the Carlow County Development Plan 2022-2028 housing targets which are to be delivered across the county and will alleviate local housing needs.

It is clear the applicants are also relying on the Public Health and Public Safety aspect of Reason C. As outlined on page28, the report highlights the poor condition of the house which has fallen into a state of disrepair. It notes there has been "Evidence of unauthorised access and anti-social behaviour" on the site due to its location in the town which presents a safety risk to the public.

The applicant has provided evidence as to the nature and scale of the public health and public safety aspect and the imperative reasons of 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 purpose of the derogation is to allow a bat roost in the existing buildings to be destroyed to allow works to take place to the buildings in order to make them habitable and be converted into apartments.

The specific situation that needs to be addressed is that the building and outbuildings are in a state of disrepair and requires renovation work in order to allow conversion into apartments. Disrepair presents a current health and safety risk. A small bat roost is present in the outbuildings and this will need to be destroyed in order for works to take place. For this, a derogation licence is required.

The alternative solutions described by the applicant are:

1. "Do-nothing" scenario
   Under the do nothing scenario the existing Somerton House and associated outbuildings would remain with no works undertaken to facilitate the residential development. It is likely that Somerton House and the outbuildings would further deteriorate over time becoming less suitable for roosting bats particularly due to the potential for water ingress to the rear of Somerton House. Under the do nothing scenario the buildings in their current state will continue to pose a risk to public health and safety. Additionally, the failure to undertake the works would Page 10 result in the loss of an opportunity to provide residential accommodation through the reuse of an existing structure. This scenario is therefore unsatisfactory.
   The applicant has demonstrated that this scenario is unworkable and will not enable conversion to a habitable state and is likely to become unsuitable for roosting bats.

2. Demolition of existing Somerton House and Outbuildings and no new development
   This scenario would result in the demolition of the existing buildings removing the risk to public health and safety. However, under this scenario the bat roosts would similarly be lost and would be subject to a derogation licence. This would also not allow for the provision of residential development and is therefore unsatisfactory.
   This scenario would render conversion to residential use impossible, as well as resulting in the loss of the bat roost. As such, it is deemed not feasible.

3. Retaining Existing Roost Feature in Situ
   Alternative approaches were considered to allow for the retention of the roost features in situ. However, the proposed renovation works will require repair and replacement of elements of the building fabric, including areas where roost access points and potential roost features occur. Therefore, the retention of

roost features cannot be achieved while delivering the proposed development and would prevent the necessary structural repairs and building alterations required to secure the long-term structural integrity of the buildings and to make the structure habitable.

It has been demonstrated that conversion to residential use cannot occur without works occurring to parts of the building where roost access points and potential roost features exist. Therefore, this option is unworkable.

4. Alternative Location

   The proposed development involves the renovation and reuse of existing buildings. The relocation of the development to an alternative site would not allow for the restoration and long-term safeguarding of the existing Somerton House and outbuildings. Additionally, the relocation of the proposed development to an alternative site may result in additional impacts as a result of new construction or land take.

   This scenario is not an option as it would not allow for the renovation and conversion to residential use of an existing building which has already been procured for this planned development and would not permit the ultimate preservation of this historic building.

5. Renovation of existing Somerton House

   The chosen option was the renovation of the existing Somerton House and the partial demolition/renovation of the outbuildings. Provision of alternative roosting habitats as well as incorporated mitigation measures will ensure the maintenance of the species conservation status.

   This option is deemed the most appropriate as it will allow for the long-term preservation of an historic building, while also allowing it to be used for habitation. It will also permit for appropriate mitigation measures to be installed to maintain the bats' conservation status.

   The applicant has 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 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 common and 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, integrated 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.

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.	☒

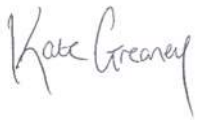
Therefore, a derogation may be granted to the applicant, since it is—

(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. All mitigation measures contained in the accompanying Bat Survey Report must be adhered to.
2.
3.
4.

[add additional conditions where required]



Signed: Date: October 6, 2026

Position: Ecologist