Derogation Number
DER-BAT-2026-321

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 **Tim Cullinan** of **Tipperary Milling Ltd., Woodville, Ballymackey, Nenagh, County Tipperary, E45 TY03** 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**:

- **Brown Long-Eared Bat** **Plecotus Auritus**
- **Natterer's Bat** **Myotis Nattereri**
- **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 **Tipperary Milling Ltd., Woodville, Ballymackey, Nenagh, County Tipperary, E45 TY03** for **Tim Cullinan**
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 **(Derogation Licence Application – Supporting Information Proposed Anaerobic Digester Development Woodville, Ballymackey, Nenagh, Co. Tipperary)** 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): **Donnacha Woods**
7. Hibernation check should be carried out prior to any works taking place and findings sent to NPWS
8. Periodic hibernation checks of Barn A and the basement of the house should be carried out during the winter months, particularly January and February. If any bats are found works should stop within these buildings and NPWS should be contacted prior to handling any bats.
9. Lesser Horseshoe Bats (LHB) are known to travel large distances between summer and winter sites. Should a LHB be identified during the hibernation surveys then all works should stop immediately and NPWS should be contacted
10. The derogation does not provide consent to proceed with any works that may also be subject to another approval (for example, planning permission).
11. 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.
12. 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.
13. 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.
14. 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.
15. 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)

06 October 2026

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



Derogation Assessment

Name of Applicant: Tim Cullinan
Location/Name of Project: Tipperary Milling Ltd., Woodville, Ballymackey, Nenagh, County Tipperary, E45 TY03
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 interests of public health and public safety aspect of Reason C. As outlined on page five of the accompanying report titled "Derogation Licence Application – Supporting Information" a derogation is required to facilitate proposed works at Woodville, Ballymackey, Nenagh, Co. Tipperary.

The objective of the works involves the demolition of several derelict structures on the site to facilitate the construction of an anaerobic digester facility and the renovation of Woodville house. The report further outlines on page 51 that the proposed development is "required to remove an existing risk to public safety" due to Woodville house being in an "advanced state of dereliction". The house is visible from the public road and has previously had the public accessing the road which poses a safety risk through structural collapse.
It is clear the applicants are also 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 53 and page 54 of the report, Anerobic digestion (AD) can "contribute towards Irelands waste management policy by utilizing waste as a resource" and highlights the EU Commissions view that Ireland has "one of the best States for Biogas potential." AD can assist Irelands transition to a low carbon economy, reduce greenhouse gas emissions, and provide local employment opportunities.
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 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 construction of an anaerobic digester facility including the renovation of Woodville House into office accommodation and the demolition of a number of derelict outbuildings and modern extensions to Woodville House.

The specific situation that needs to be addressed is Woodville House and Barn A both contain bat roosts. Barn A hosts 10-15 adult female Natterers Bat, 5-10 Brown long-eared bats, small numbers of Soprano and Common Pipistrelle. Woodville House contains small numbers of Common Pipistrelle and the basement level contains potential suitable habitat for hibernating bats but has not been surveyed or accessed (no reason is given for this but the house is in poor repair with certain floors collapsing).

The alternative solutions suggested by the applicant are:

1. Do nothing scenario: The buildings in their current state comprise a risk to public health and safety. In addition, under this scenario the subject buildings wound continue to structurally deteriorate leading to eventual collapse and loss of existing bat roosts and roosting resource. As such, the do-nothing scenario is unsatisfactory.
2. Renovation of subject buildings on-site and no new development: The potential for the renovation of the existing subject buildings on-site (Woodville House and Barn A) with no further development was considered. This alternative is not financially viable and is therefore not a viable alternative. The renovation of Woodville House from its advanced derelict state would be financially onerous without the accompanying development. As noted in an Architectural & Historical Impact Assessment completed by Arthur Gibney & Partners: “Currently the house is unlikely to return to residential use and so the proposal to renovate and restore the house and provide it with a meaningful day to day use is an appropriate way of ensuring its survival”. Furthermore, under this scenario an application for derogation licence would also be required for works to the buildings containing recorded bat roosts. This scenario is therefore unsatisfactory.
3. *Construction of proposed anaerobic digester facility and no works to subject buildings: The potential for the construction of the proposed anaerobic digester facility and no works to the subject buildings was considered. The buildings in their current state comprise a risk to public health and safety. In addition,*

under this scenario the subject buildings would continue to structurally deteriorate leading to eventual collapse and loss of existing bat roosts and roosting resource. As such, this scenario is unsatisfactory.

4. *Chosen option: Construction of anaerobic digester facility and retention and restoration of Woodville house and Barn A following strict mitigation measures to facilitate continued future use by roosting bats. This will ensure the provision of suitable, stable roosting habitat at the site into the long-term to the benefit of local bat populations.*

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on pages 54-55 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)

Woodvile House provides roosting for four bat species including Common pipistrelle (Pipistrellus pipistrellus); Soprano pipistrelle (Pipistrellus pygmaeus), Natterer's bat (Myotis nattereri), Brown long-eared bat (Plecotus auritus). Individual bats and roosts are present in various buildings and walls. Comprehensive breeding season surveys have been completed, and a detailed programme of mitigation measures has been drawn up.

The proposed mitigation measures include restrictive timing of works in certain areas, the retention and improvement of bat access to roosting features post-works, and sympathetic lighting and landscaping plan.

With the full implementation of these mitigation measures I am satisfied that the derogation would not be detrimental to the maintenance of the populations of the bat 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:

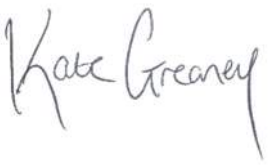
There is no satisfactory alternative	☒
and the derogation is not detrimental to the maintenance of the populations of the species to which the Habitats Directive relates at a favourable conservation status in their natural range.	☒

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. Hibernation check should be carried out prior to any works taking place and findings sent to NPWS
2. Periodic hibernation checks of Barn A and the basement of the house should be carried out during the winter months, particularly January and February. If any bats are found works should stop within these buildings and NPWS should be contacted prior to handling any bats.
3. Lesser Horseshoe Bats (LHB) are known to travel large distances between summer and winter sites. Should a LHB be identified during the hibernation surveys then all works should stop immediately and NPWS should be contacted.
4.
[add additional conditions where required]



Signed: Date: October 6, 2026

Position: Ecologist