Derogation Number
DER-BAT-2026-330

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 **Stephen Foley** of **South Dublin County Council, Beaver Lodge, The Priory, Donabate, County Dublin, K36 HP22** 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**
- **Common Pipistrelle** **Pipistrellus Pipistrellus**
- **Soprano Pipistrelle** **Pipistrellus Pygmaeus**
- **Leisler's Bat** **Nycatalus Leisleri**
- **Whiskered Bat** **Myotis Mystacinus**

Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Lucan House, Lucan Demesne, Lucan, County Dublin, K78 VP44** for **Stephen Foley**
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 accompanying application report 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 **20th November – 31st December 2026, inclusive.**
6. The works will be supervised by bat ecologist(s): **Emma Boston**
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 – Hugh McLindon,** hugh.mclindon@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)

20 November 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: Stephen Foley

Location/Name of Project: Lucan House, Lucan Demesne, Lucan, County Dublin, K78 VP44

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 in the accompanying report titled "Lucan House Stable Building Refurbishment", a derogation is required to facilitate proposed works at the former stable building at Lucan House Demesne, Lucan, Co. Dublin.

The objective of the works involves the refurbishment and reuse of the building "into a farm shop, café, exhibition and events space with associated public facilities.". The application further outlines the works are necessary to "to address health and safety risks associated with the condition of the structure, facilitate safe public access and secure the long-term conservation of the building". Without the works the building will continue to deteriorate and limit any future use.

It is clear that 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. The site is in Lucan Town Centre, and forms part of the Lucan House Demesne Masterplan as outlined by South Dublin Co. Co. The proposed works will provide substantial benefits through "heritage conservation, increased public access to Lucan House Demesne, enhanced visitor facilities and the provision of community amenities."

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):

This 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'. The purpose of the application is to facilitate the refurbishment and adapted re-use of the stable buildings within the Lucan demesne. This works forms part of the Lucan house master plan.
The application and documentation provided by the applicant has been reviewed in full, in particular for the evidence supporting the consideration of alternative solutions for this development. The alternative solutions suggested by the applicant are "Do nothing" and "Demolition of the Stable Building".

1. For the "do nothing" scenario, the stable building would remain in its current state. The project involves the refurbishment of the stables to convert them into a "farm shop, café, exhibition and events space with associated public facilities". This scenario would not make that feasible. This alternative scenario would allow the continued deterioration of the stables. In turn, this would reduce the long-term suitability of habitat for the bats.
2. The "demolition of the stable building" scenario would lead to the complete loss of all existing bat roosts in the building as well as the building itself. The objective of the project is to conserve the buildings and look to incorporate dedicated roosting features within the structure.

The applicant has provided evidence that alternative solutions were considered for the project and that no other alternative solutions are available. Based on the above, the application has passed test two and can proceed to test three.

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)

Roosts of five species of bat are present in the buildings in question: Nyctalus leisleri, Plecotus auritus, Myotis mystacinus, Pipistrellus pipistrellus and Pipistrellus pygmaeus. These species are widespread in Ireland and all three are in favourable conservation status.

Suitable and proportionate mitigation is planned including the retention of a designated roosting area within the attic, with continued access via the already installed bat access tile. Repairs will be supervised to ensure safe bat access is maintained. Works will occur within the NPWS-agreed seasonal window using bat-safe materials and under ecological supervision. With the proposed mitigation measures, the impact of the derogation on the local bat population will be minimal.

These mitigation measures ensure that the existing roost remains functional and protected during the works, and hence the derogation will not be detrimental to the maintenance of the populations of the species in question at a favourable conservation status in their natural range.

<u>If the answer above is Yes then the derogation may be granted, providing Tests 1 and 2 have also been met.</u>

<u>Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.</u>

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: Kate Greaney Date: November 20, 2026

Position: Ecologist