



NPWS

An tSeirbhís Páirceanna
Náisiúnta agus Fiadhúlra
National Parks and Wildlife
Service

**Derogation Number
DER-BAT-2026-46**

**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 **Gerry Prendergast of Herbata Ltd., 4C Sycamore House, Millenium Park, Naas, County Kildare, W91 T6WE** 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**
- **Daubenton’s Bat** **Myotis Daubentonii**



Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Jigginstown and Halverstown, Naas, County Kildare, W91 PK77** for **Gerry Prendergast**
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 Supporting Document Herbata Data Centre**) 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 **1st April – 31st October 2026, inclusive**.
6. The works will be supervised by bat ecologist(s): **David Welsh**
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 Conservation Ranger – Killian Brennan** , killian.brennan@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.**



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For the Minister for Housing, Local Government & Heritage

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

19 January 2026

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





Derogation Assessment

Name of Applicant: Gerry Prendergast

Location/Name of Project: Areas in Jigginstown & Halverstown, County Kildare, W91 PK77

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 in the accompanying report, the derogation is required for the proposed demolition of a single structure to facilitate construction of a Data Centre at Jigginstown, Naas, Co. Kildare.

The report highlights the Naas Local Area Plan (2021 – 2027), noting the subject site is zoned to provide for Data Centre development and therefore within the planning policy. The report also notes the Kildare County Development Plan (2023 – 2029). The development plan states that it is the policy of the council to support the accommodation of Data Centres at appropriate locations and in line with the objectives of the National Planning Framework and the principles for Sustainable Data Centre Development of the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy (July 2022) subject to appropriate environmental Assessments and all relevant planning conditions.

Furthermore, the Government statement on the role of Data Centres in Irelands Enterprise Strategy notes that Data centres are core digital infrastructure and play an indispensable role in our economy and society.

The applicants have 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 purpose of the derogation is to allow the following activity to take place: Construction of a data centre. The site is designated for this specific use within KCC DP. The applicants have provided clear evidence that this facility at this location matches with National and Local government strategy and policy and that the proposed development meets the overriding public interest requirement of the derogation process.

The specific situation that needs to be addressed is the location of bat roosts, particularly within structure one on the subject site. The Bat roost is located centrally on the site. The applicant's state that given the scale and the arrangement requirements of the data centre it is not possible to incorporate this building into the overall design for the site. The building and the roost need to be destroyed in order to facilitate the proposed development.

The alternative solutions suggested by the applicant are. The applicants have not provided detailed alternative solutions. They have provided arguments as to why reduction in the number of data halls or rearrangement of the proposed development would not be commercially viable. The application states following these arguments – *"As such, there is no scope to consider alternatives for the Data Centre buildings in terms of their scale and mass which would result in the retention of the structure containing bat roosts at the centre of the site."*

The applicant highlights that any reduction in the number of data centre 'halls' would make the proposed development not commercially viable. No alternative site arrangements have been submitted with this application that would result in the retention of the existing bat roost. It is noted that the applicants have highlighted the commercial constraints on reducing the number of data halls and/or other site rearrangement and have made a cogent argument that no alternative solution exists.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered as noted above.

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 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)

One of the buildings proposed for destruction supports a minor roost of c.2 Daubenton's bats and a single Common Pipistrelle Bat. Both of these species are widespread in Ireland and in favourable conservation status.

Suitable mitigation is planned including the provision of high-quality artificial bat boxes and three dedicated bat houses.

It is considered that the provision of the above mitigation may help enhance the site for roosting bats and will provide opportunities for maternity colonies and individual roosting bats which are not currently supported on the site.

Given the minor significance of roosts recorded within the site, in addition to the extent of mitigation proposed, it is considered that the works will 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

☐



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The following conditions should be attached to the derogation:

- 1.
- 2.
- 3.
- 4.

[add additional conditions where required]

Kate Greaney

Signed: .

Date: January 19, 2026

Position: Ecologist