





### Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **GM Hands Lane Developments Ltd., Wimbleton, Ballyboughal, County Dublin, K45 AH79 for Hugh Fitzsimons**
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 actions which this derogation authorise shall be completed between **1<sup>st</sup> September 2026 – 31<sup>st</sup> December 2026**
5. The works will be supervised by bat ecologist(s): **Brian Keeley**.
6. A suitably qualified bat ecologist will conduct pre-demolition checks and install one-way exclusion devices if necessary to ensure all bats have safely vacated the roost.
7. Three bat boxes will be installed prior to demolition in ecologically suitable locations across the site, ensuring no net loss of roosting potential.
8. Native hedgerows, tree planting, and insect-rich planting will be incorporated into the landscaping.
9. Consideration should be given to the provision of Dark corridors and bat-friendly lighting within the development
10. 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.
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 Conservation Ranger – Rob Mulraney**, [robert.mulraney@npws.gov.ie](mailto:robert.mulraney@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 date of this derogation**. Included with the Returns form, a report will also be submitted to [wildlife.reports@npws.gov.ie](mailto: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**

(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](mailto:reg54derogations@npws.gov.ie)





### Derogation Assessment

**Name of Applicant:** Hugh Fitzsimons

**Location/Name of Project:** Ballyboughal, County Dublin, A41 TR26

**Tick the following prohibition as chosen on the application:**

(a) Deliberately capture or kill any specimen of the relevant species in the wild	<input type="checkbox"/>
(b) Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	<input type="checkbox"/>
(c) Deliberately take or destroy eggs of the relevant species in the wild	<input type="checkbox"/>
(d) Damage or destroy a breeding or resting place of such an animal, or	<input checked="" type="checkbox"/>
(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.	<input type="checkbox"/>
(a) Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	<input type="checkbox"/>
(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.	<input type="checkbox"/>

#### 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,	<input type="checkbox"/>
(b) To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property	<input type="checkbox"/>
(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,	<input checked="" type="checkbox"/>
(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	<input type="checkbox"/>
(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.	<input type="checkbox"/>



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	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

**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 one of the accompanying report, the derogation is required to assist with proposed works at Ballyboughal village, Fingal, Co. Dublin. The proposed works involve the demolition of an existing structure and partial demolishment and redevelopment of another structure at the site to facilitate the construction of a residential housing development and associated works.

The proposed development supports the delivery of new housing in Fingal under the local development plan, addresses local housing need, while providing social and economic benefits through employment and community investment.

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	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

**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:

-to allow for a proposed building development to progress

The specific situation that needs to be addressed is that a barn needs demolition for work to progress has one Common Pipistrelle (*Pipistrellus pipistrellus*) roosting and it is required that said roosting place be demolished

The alternative solutions suggested by the applicant are:

1. “Do-Nothing” scenario

“Retaining the existing structures (barn and house) would leave the common pipistrelle bat roost undisturbed but would also retain a disused building that poses a health and safety hazard. Over time, the building would either deteriorate and become unsuitable or would require maintenance which would place the roost at risk without a suite of measures for protection. These measures may not occur if the building is not the subject of scrutiny (where no planning process is involved or regular monitoring is not in place).”

2. Alternative 1

“Avoidance of roost

Avoidance of the bat roost location within the site was considered. However, the roost is located in an area that would remove a section of the proposed site and would reduce the viability of the proposal. The housing cannot be built to the appropriate size if the barn and old house remain and there will be a loss to the area of housing.”

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 35 of the accompanying report the roost comprises a single common pipistrelle (*Pipistrellus pipistrellus*), a widespread species in Ireland with a favourable conservation status at national and EU levels.

Furthermore while the site is subject to bat feeding and activity, there is little evidence for that it is used for widespread roosting.

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. However, it is required further bat emergence surveys be conducted prior to work commencing, as there is a contrast between the results presented, i.e. low number of roosting bats observed against high numbers of bats observed to be feeding. It is the opinion of the Conservation Ranger that bat feeding levels were, based on the numbers presented in the survey, did not constitute low levels of activity, as stated in the report.

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	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

**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 single roosting common pipistrelle was identified using one of the buildings on site. Common pipistrelles are widespread and extremely abundant in Ireland. They are in favourable conservation status. In relation to appropriate levels of mitigation, this is what our *Bat Mitigation Guidelines* indicate for roosts containing individual bats of common species: *Flexibility over provision of bat-boxes, access to new buildings etc. No conditions about timing or monitoring.* On this basis, some of the mitigation measures suggested in the bat report appear to be disproportionate. I have suggested appropriate mitigation measures under the Conditions below.

Given the minor significance of the roost in question, 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

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. A licensed bat ecologist will conduct pre-demolition checks and install one-way exclusion devices if necessary to ensure all bats have safely vacated the roost
2. Three bat boxes will be installed prior to demolition in ecologically suitable locations across the site, ensuring no net loss of roosting potential.
3. Native hedgerows, tree planting, and insect-rich planting will be incorporated into the landscaping.
4. Consideration should be given to the provision of Dark corridors and bat-friendly lighting within the development.

Signed: .

Date: January 19, 2026

Position: Ecologist